United States Court of Appeals

for the Second Circuit

APPELLANT'S APPENDIX

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74-2221

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P/S

United States Court of Appeals

For the Second Circuit

CHARLES DEFELICE, a minor under the age of 21 years, by his Mother, GERTRUDE DEFELICE, PETER A. DUNN, a minor under the age of 21 years, by his Mother, SUSIE HARRISON, GEORGE IRISH, JR., a minor under the age of 21 years, by his Father, GEORGE J. IRISH, VILMA MORAN, a minor under the age of 21 years, by her Father, PEDRO MORAN, ALFREDO A. RAMOS, a minor under the age of 21 years, by his Mother ALFRIDA RAMOS on behalf of each and on behalf of all others similarly situated,

Plaintiffs-Appellees,

v.

THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, MURRY BERGTRAUM, President of the Board of Education of the City of New York, HARVEY B. SCRIBNER, Chancellor of the Schools of the City of New York, IRVING ANKER, Superintendent of Schools of the City of New York, JACOB ZACK, Assistant Superintendent in Charge of High Schools of the City of New York, and HILLERY C. THORNE, Director of Central Zoning of the Board of Education of the City of New York,

Defendants-Appellants.

On Appeal from the United States District Court for the Eastern District of New York

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APPELLANTS' APPENDIX

VOLUME IV OF FOUR VOLUMES

(Pages 906 to 1275)

UNITED STATES COURT OF APPEALS
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Memorandum Incorporating Findings of Fact and Order

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

71 C 502

CHARLES DEFELICE, *et al.*,

Plaintiffs,

against

THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, *et al.*,

Defendants.

Appearances:

MORTIMER TODEL, Esq., for Plaintiffs

DORON GOLDSTEIN, Esq. (ADRIAN P. BURKE, Corporation Counsel of the City of New York, of Counsel) for Defendants.

DOOLING, D. J.

Reference is made to the Memorandum incorporating Findings of Fact and Order dated April 10, 1972. The Findings of Fact now made are after trial and are in addition to the findings made in the earlier Memorandum and Order.

The additional data presented at trial are significant in two principle areas. *First,* they show in a more precise way the relation of the ethnic distribution of the Franklin K. Lane school population to that of the other academic

high schools in Brooklyn and Queens and, *second*, they show the extent of the educational disadvantage experienced by students at Franklin K. Lane and the limited educational resources deployed and deployable to compensate for and remedy the educational disadvantage of the students' lot.

Extension of the data with respect to Franklin K. Lane backward in time and bringing it down to the trial date requires the conclusion that no substantial change has been made in the boundaries of the Franklin K. Lane school district except as now indicated. In the school year 1969-1970 three "skip zones" were cut out of the Lane school district and students from the skip districts were assigned to Franklin Delano Roosevelt High School, Midwood High School and Tilden High School, all of which are in the more southerly and westerly parts of the borough of Brooklyn. A fourth skip zone, Sheepshead Bay High School, was also cut out of the Lane district and these students were sent to a school located far down in Brooklyn in the Sheepshead Bay area. In the school year 1970-1971, Boys High School, located in the north central part of the borough was for the first time zoned, and the zoning of Boys High School resulted in the assignment of a part of the western extremity of the Lane school district to the new Boys High School district. Boys High School in the school year 1969-1970 was 87½% black, in 1970-1971 was 90.3% black and in two more recent years has been 89.9 and 90.3% a black school. In addition, of the Boys High School population in the years 1969-1972, from 7.9 to 10.9 percent has been Puerto Rican, and in none of those years was as much as 2% of the school population classified as "other".

Statistics furnished by the defendants are, then, that in 1961 the population of Lane was 23.1% black, 4.1% Puerto Rican and 72½% "other". Commencing in 1965 the black population of the school rose steadily from 39.8%

in 1965 to 44.8% in 1966, to 47% in 1967, to 50.1% in 1968, to 53.5% in 1969, to 56.2% in 1970, to 57.2% in 1971, to 59.6% in 1972, and to 61.2% in 1973. Meanwhile, the Puerto Rican population of the school likewise increased from 4.1% in 1961 to 5.1% in 1965, and thereafter continued to rise until in 1972 it was 19.9% and in 1973 was 20.8%. In consequence, the "other" population of the school declined from 72.5% in 1961 to 47½% in 1965, and it has continued to decline steadily to 20.5% in 1972 and 16.2% in 1973.

The statistics on the population of Lane are not however to be taken as totally descriptive of the situation since the history of school population change is part of the total population change in the academic high schools of Brooklyn and the population changes in the schools reasonably near Lane in Brooklyn and in Queens. In the period from 1957 through 1971 the "other" population in all academic high schools in the entire city of New York declined from 86.1% to 53.3%. The black population of the schools has in the same period increased from 9.3% to 31.0% and the Puerto Rican population in the schools has increased from 4.6% to 15.7%. In Brooklyn in the period between 1961 and 1971 taking academic and vocational high schools together, the "other" population has declined from 82.1% to 48.9%, the black population has increased from 12.1% to 34.7% and the Puerto Rican population from 5.8% to 16.4%. In all of the Brooklyn academic high schools taken together in the period 1957 through 1972 the figures (Exhibits W and Y) show that the "other" population in all Brooklyn academic high schools taken together declined from 90.2% to 50.1%. The decline in "other" population is a steady decline without reversal in trend between any two years. It is possible to discern in the figures an increase in the rate of decline for the latter part of the period. During the same period, 1957 through 1972, the black population in all Brooklyn academic high schools

taken together increased from 7.4% to 36.5%. Again, the increase in black population is a steady increase from year to year without reversal in trend and the higher year-to-year rates of increase are in the years in the latter part of the period. Over the same period, 1957 to 1972, the Puerto Rican population in all Brooklyn academic high schools combined has increased from 2.4% to 13.4%, and the increase is without change in trend at any time except between the years 1959 and 1960 when there was a small diminution in Puerto Rican percentages which was reversed in the following year.

The figures with respect to the academic high schools in Queens present the same trend but in a radically different degree of progression. The percentage of "other" students in the academic high schools of Queens combined declined from 94.2% in 1957 to 69.3% in 1972. The decline in the "other" population of the Queens schools, as in the case of Brooklyn, is steady and unreversed in any year, and the percentages of annual decline tend to be somewhat higher in the latter years than in the earlier ones. Over the same period of time, 1957 to 1972, the black population in all Queens high schools combined increased from 5.1% to 26.1% and the Puerto Rican population from 0.7% to 4.6%.

The population trend in the Lane High School is, thus, embedded in a picture of total change both in the city as a whole and within the boroughs of Brooklyn and Queens, and particularly in relation to the academic high schools in each of the boroughs. But the problem is not one of uniform distribution in space, of course, but is one made up of a set of trends and conditions. Very broadly, the concentrations of black and Puerto Rican population in the borough of Brooklyn tend to be in the northerly part of the borough and the concentrations of black and Puerto Rican population in Queens tend to be in the southerly part

of that borough. Both boroughs are large from the point of view of daily travel to and from points located at or near opposite ends of each borough and from points well within one borough to points well within the other, and public transportation is not patterned to fit the requirements of school population attendance and transfers.

It appears to be the fact, and the administration of the defendant Board treated as a factor relevant in their policy making, that there is a relationship between the composition of the population of a particular [illegible] and the trend of population in the neighborhood or [illegible]ich the school serves or is meant to serve. That is [illegible]ency of people with children of school age to emig[illegible] fro[illegible]n the city appears to increase if parents observe that the schools to which they must expect their children to be assigned show an increase in ethnic populations diverse from their own. Hence the administration of the Board inclines to the belief that if the percentage of blacks and Puerto Ricans in a school's population visibly increases, that creates a tendency to accelerate the diminution in "other" population of the school through voluntary withdrawal of "other" students from the school by family emigration or by transfer of students to private or denominational schools. Satisfied that there is such a direct connection between the change in the ethnic composition of a school and the continuation of the more general tendency of people in the "other" classification to emigrate from the city when their children reach school age, or to enroll their children in non-public schools, the administration of the defendant Board sees as a principal resource for retaining a better population balance programmatic and other changes in the educational opportunities offered in particular schools. The schools, if they can be made programmatically attractive, can operate to make family emigration less attractive, and transfer of school age children to other schools less desirable.

Memorandum

An example is recent programmatic changes made at Erasmus Hall High School in central Brooklyn. The "other" population of Erasmus was 90.7% in 1961 and by the 1972 school year had become 35.9% "other", 6.7% Puerto Rican and 57.4% black. A music and art school was designed for the Erasmus operation in an effort to make the school independently attractive, and to draw students from well outside the Erasmus district, since the school of Music and Art would not be "zoned". Similarly, in Tilden, which is somewhat east of Erasmus and on the Brooklyn midline, the "other" population declined from 97.9% in 1961 to 59.6% in 1972, with 35.1% black and 5.3% Puerto Rican. A school of political science was designed on the same unzoned basis to draw students from outside the zone into the Tilden High School.

The problem of imbalances has been dealt with more directly, however, by three now familiar expedients. The first of these is, of course, to rezone in such a way as to extend school districts as much as can be done to achieve whatever balance sheer geography can supply. A second expedient has been to establish detached or "skip" zones in neighborhoods which were considered ghetto neighborhoods for schools sometimes rather far distant; the ghetto students living in the 'skip" zone are then able to attend schools in which their own racial or national stocks are a minority. Skip zoning was perhaps at its heigh in the school year 1969-1970, when there were in Brooklyn skip zones not only for the Brooklyn schools in the southern part of the borough but also for Richmond Hill High School. And in the school year 1970-1971 both the Bryant High School in Queens and Richmond Hill High School had Brooklyn skip zones and South Shore High School in Brooklyn had a skip zone from a more northerly part of the borough of Brooklyn. In the 1972 school year, there were no skip zones as between school districts within Brook-

lyn but there remained in the northern part of Brooklyn skip zones for three of the Queens high schools, Bryant High School, Grover Cleveland High School and Richmond Hill High School.

In addition to the skip zones, there was also an optional program under which students in junior high and intermediate schools who are ready to enter high school are offered the option to apply instead for admission to another high school outside their own high school zone. The program was offered to graduates of selected intermediate and junior high schools in the Erasmus High School zone, the Thomas Jefferson High School zone, the George Wingate High School zone, the Franklin K. Lane School zone, the Boys High School zone, and the Eastern District High School zone. Under this program, students were permitted to list their choices of certain other high schools and to the extent of seating availability they could then be assigned to schools other than the ones into which they were zoned. The numbers involved have not been great. It approximated 2,000 students; taken with the enclave or skipzone program under which Brooklyn students are sent to Queens high schools, in the 1972 school year, 2,307 students, in total for the four years of high school, were affected. The whole effort is modest, but it is intended to affect the schools which stand most in need of a redressing of imbalances, to the extent that it is practicable.

A third approach pursued by the Board to some extent is implicit in fixing the location of new schools. For example, in Queens the program would visualize that new high school buildings would be located in the middle part of the borough and then would be zoned to draw students both from the southerly part of the borough, where black and Puerto Rican students were living in greater numbers, and from the northern part of the borough where students in the "other" classification greatly predominated. Such a

school, typically, was the Hillcrest School built fairly close to Jamaica High School and with a school district that extended well to the north and well to the south. Similarly in Brooklyn, newer schools were located in the middle part of the borough, and no new scheels were opened in the northerly part of the borough. The effort was in this way to bring about a necessary zoning which would relieve imbalance by locating schools in areas in which the school populations would necessarily be drawn from neighborhoods having very different racial and ethnic compositions. The integrating effect of such a sitting policy, however, tends to dissipate during the period of delay between planning and actual opening a school because population shifts occur during the interval. When the schools open they at times have a population mix already heavily tilted against the "other" group.

More recently, the tendency of the administration is to plan on building the schools where the students are and to rely on other means of coping with the educational problem. In part, this reflects resignation to the idea that the enormous size of the New York City school district, considered as a single consolidated school district, tends itself to defeat the zoning effort because of the great extent of the imbalanced neighborhoods and the relatively few neighborhoods that approach being integrated residentially. This fact, coupled with the emigration of parents with school age children which drains "other" population from the city schools into suburban schools which are imbalanced in the opposite direction, creates a situation which the Board of Education is powerless to rectify by its own local action.

Given the overall imbalance problem with which the defendant Board is confronted, there nevertheless remains a substantial area for controversy over whas has been done in zoning and rezoning within the city itself. The popula-

tion statistics for each of the academic high school zones in Brooklyn and Queens make it quite impossible to see and explain the shifts in school population, but it remains true that there are extremes of imbalance in both directions. The school districts contiguous with that of Lane in Brooklyn are Bushwick, Boys and Jefferson. Canarsie, South Shore, Tilden and Wingate High Schools have districts portions of which are not more distant from the Lane districts than are the remoter parts of the Bushwick and Jefferson districts. Of the Brooklyn schools with contiguous districts, Bushwick is 17% "other", 47% Puerto Rican and 36% black. Thomas Jefferson has 5.1% "other", 27.7% Puerto Rican and 61.2% black, and Boys High School, the third contiguous territory school has 1.8% "other", 7.9% Puerto Rican and 90.3% black. The schools next farther removed are Canarsie and Wingate. Canarsie has 61.8% "other", 7.8% Puerto Rican and 30.4% black, and Wingate has 6% "other", 9.1% Puerto Rican and 84.9% black. The next more remote schools to the southwest are South Shore and Tilden. South Shore is 65.5% "other", 4.3% Puerto Rican and 30.2% black, and Tilden is 59.6% "other", 5.3% Puerto Rican and 35.1% black. Still farther away, Erasmus has 35.9% "other", 6.7% Puerto Rican and 57.4% black and Midwood has 71.3% "other", 2.6% Puerto Rican and 26.1% black.

The schools which have districts either primarily or wholly in Queens that are contiguous to the Franklin K. Lane district are Grover Cleveland which lies, in the main, north and north of the westerly end of the Lane district, Richmond Hills, which lies in the main east of Franklin K. Lane, and John Adams, which lies to the south and southeast of Lane district. The 1972 school year population at Cleveland is 85.3% "other", 4½% Puerto Rican and 9% black. (At an earlier period when it had substantial enclave students from skip zone territory in Brooklyn,

Grover Cleveland had had, in the 1967 and 1968 school years, 31% black and in 1969 23½% black and in 1970 14.1% black.) Richmond Hill High School is 62.8% "other", 8% Puerto Rican and 29.2% black. John Adams High School is 74.2% "other", 5.5% Puerto Rican and 20.3% black. Cleveland and Richmond Hill are roughly the same size, about 3000 students in capacity terms, and John Adams has a capacity of 4,133; Cleveland is 138.8% utilized in the current year, John Adams, 124.8% utilized, and Richmond Hill 118.0% utilized. Lane has a capacity rated at 4426 and is 111% utilized.

Beyond the contiguous Queens school districts are the districts of Newtown High School, Forest Hills and Hillcrest High Schools. Newtown High School in the current year has a population which is 86.6% "other", 3.3% Puerto Rican and 10.1% black. The capacity of the school is 3534, its utilization 134.1%. Forest Hills High School is 84.5% "other", 2.2% Puerto Rican and 13.3% black. Its rated capacity is 2830 and it is 109.4% utilized. Hillcrest High School, operating since the 1971 school year, is 56.2% "other", 8.4% Puerto Rican and 35.4% black. In capacity is 3234 and it was in the 1972 school year utilized 99.3%.

The Queens and Brooklyn zoning maps and the school population data demonstrate that there could be any number of alterations of the Franklin K. Lane boundaries, and that if its boundaries were changed, the population of the school would reflect very different ratios between black, Puerto Rican and "other" students. That would necessarily alter the ratios in every other school in the area. Specifically, the indication is that the most obvious changes in the Lane district—to shorten the westward extension of the district into Bedford Stuyvesant—would have first impact on the nearest Brooklyn schools, Bushwick, Boys High, Wingate and Jefferson, all of which already reflect an "other" population which is lower than that of Lane.

Beyond them are the Canarsie, South Shore and Tilden districts which do have radically higher percentages of "other" population (59.6% to 65.5%) and Erasmus which at present has an "other" population of 35.9%. In the direction of Queens, north, east and southeast, plaintiff have contended that transfers of school utilization of the high schools available, to further racial integration, to recognize geographical factors (such as proximity of the school to its students, natural boundaries, and major traffic arteries), to take account of the availability of transportation facilities, and to insure the continuity of the education of the students. It is recognized by the Board that a key element in quality education is integration.

While there must be unqualified recognition of the immense difficulty which the Board of Education faces in rezoning schools, the conclusion is compelled that the Lane school district does not as it presently exists reflect equality of treatment with the other school districts which are in its region. It manifests unexplained and unwarranted imbalance in circumstances in which the composition of the district implicitly reflects failures to act upon recognized principles elsewhere applied in school zoning in the city. Repeated adherence over a long period of time to the Lane boundaries, continuing after the pendency of the present action had sarply drawn the situation to the attention of the Board, reinforces the conclusion that there must be a final order requiring the redistricting of Lane in such manner as substantially to redress the present imbalance.

There has been repeated reference to the measures already taken to redress imbalance of Lane and these have come down really to two things. *First,* the consequence of zoning Boys High, which resulted in cutting off the most westerly part of the Lane district, and, *second,* the participation of Lane in the open admissions program. However, the effect of these two expedients has not been materially

to change the situation at Lane, as the statistics demonstrate. The open admissions program, while not derisory, is not a substantial help, as Exhibit 5 shows. The students in effect offered the opportunity to transfer out of Lane numbered 451 in the school year 1969-1970, 269 in the school year 1970-1971, 155 in the year 1971-1972, and 155 in the year 1972-1973. These figures are in one sense cumulative, since they reflect the yearly offer of open admission opportunity to students who would otherwise have been registants in Lane, but, while the evidence does support a finding that such open admissions opportunities are usually fully taken up, that is not absolutely certain, and, again reference to the school population trend of Lane itself indicates that the open admissions expedient has been an inadequate palliative.

It has been strenuously pointed out by the Board that the ultimate and ultimately underlying issue in such a case as that of Lane, is the problem of adequacy of education; that the goal is to give every child a realistic opportunity to be appropriately educated, and to deal with the city's educational problems in honest confrontation with the real educational needs, and, by exploiting the educational opportunities that can be created, to satisfy genuine educational needs in a way that is appropriate to the nature and extent of the needs of the student body. The Board's emphasis is on its duty and its attempts to deal effectively and imaginatively with the school population which the city has, and which it will continue to have no matter what is done with zoning and rezoning, and through striking new balances of race and national origins in the schools. Whatever is done, it is the city's underlying insistence, the students who are regarded as the victims of imbalance must be educated, and they must be educated in a way that deals constructively with their educational needs.

The Board, accordingly, has emphasized that much is done to make available to Lane, simply because it is the kind of school that it is with the population that it has, much that is not made available to other schools, and it has emphasized that more effective and imaginative administration within the school, given the autonomy that each high school principal is given, could very materially improve the education offered at Lane.

Reference must be made to Exhibit A, a set of profiles of the city high schools based on data of the year 1970-1971 in the main, to illustrate the Board's point and to underline its limitations. Turning first to the profile of Franklin Lane, pages 66-67, the problems of the school with its present population can be seen at a glance. The percentage of attendance at the school is 58% as distinguished from city wide attendance of 77%. Pupil transiency is 61½% as against city wide transiency of 45.2%. 49% of the pupils ing percentage for the entire city is 29.6%. The numbers read two or more years below grade level; the correspondgraduating and receiving diplomas is so small in terms of the total school enrollment that it can only be regarded as disheartening. Moreover, other data presented at the trial require findings that actually the input to Franklin Lane is to a very considerable extent made up of children who are seriously handicapped from the educational point of view.

The trial evidence presented Lane in an even worse light than the 1970-1971 profile threw on it. Plaintiffs' evidence was that 70% of those entering Franklin Lane who took a standard test were in the bottom 23% of the entire number of students taking the standardized test. The test, variously referred to as minimum competency test, etc., is designed to measure the student's adequacy upon entrance to deal with high school work. In more specific terms: in October 1971 about 775 or 800 of Frank-

lin K. Lane's 9th year entering class of 1350 took the Metropolitan Achievement Test. Of those who took it 70% were below minimum competency in reading by the State standard; 70% fell in the bottom 23.7% of the State grouping. The opinion was expressed, and, of course, would not be tested, that the result would not have been better had all of the entering class of 9th year students taken the test. For general purposes, it appears to be assumed among educators concerned with New York City educational problems, that the reading achievement test is the most valid measure of entering competency.

Returning to the school profiles of Exhibit A, reference can be made to the distinguished schools in the system, as illustrating the extreme of what is accomplished with children apparently highly motivated and achievement oriented. In the High School of Music and Art, with a population 24.3% black, 9% Puerto Rican and 62.9% "other", the percentage of attendance is 87%, or 10% above city wide average, and pupil transiency is at 17%, or considerably less than half the city wide average; only 2.6% of the students are two or more years retrograde in reading (less than a tenth of the city wide percentage); 88% of the graduating class were applying to four year colleges, 6% to junior or community colleges and 10% to other institutions (the statistical discrepancy is unexplained in Exhibit A). Stuyvesant High School, which is on east 15th Street, has 94% attendance, only 12% transiency, and 97% of the school population were applying to four year colleges and 3% to junior or community colleges. The school population is 79.5% "other", 10.3% black, 6% oriental and 3.4% Puerto Rican. Bronx High School of Science has a percentage of attendance of 92%, 8½% pupil transiency, and no students reading two or more years below grade level; 97.4% of the graduating class received diplomas, and 100% of the graduates were applying to 4 year colleges. Brook-

lyn Technical High School had a 95% attendance, 19.8% pupil transiency, 1/10 of 1% of the students read two or more years below grade level; 90% of the graduates were applying for four year colleges, 7% to junior or community colleges and 3% to other institutions; the composition of the school is 76.6% "other", 12.3% black, 6.2% oriental, 3.9% Puerto Rican, and 1% students having Spanish surnames not identified as Puerto Rican.

The defendant Board emphasized indirectly that its deepest concern is, and in its judgment should continue to be, with educating the children in whatever schools they are and whatever the ethnic and racial composition of the school population. The emphasis which its evidence insisted upon was on the educational significance of school population rather than the abstraction of racial balance divorced from a concern with the educational problems presented by the school. From the Board's point of view, as elaborated in the evidence, Lane is first and foremost an educational problem and as an educational problem, a testing and proving ground, as, evidently the Board considers, every high school must be which has an ineluctable school population problem to deal with. It is only too apparent that the Board is looking toward a future in which, citywide, the composition of school populations, reflecting demographic trends within the iron boundaries of the city itself, will intensify the difficulties and multiply the complexities of the educational problems the schools present. The Board has evidently reconciled or resigned itself to the view that the entire school population of the city will be in marked imbalance from an ideal point of view because of the exodus from the city of parents with children of school age who yet continue to be a part of the total metropolitan economy. The picture which the Board sees is, therefore, one in which the city, unable educationally to go beyond its own borders, will not have a representative

school population in terms of the entire working population of the city and of the greater metropolitan area. In consequence, it is the Board's visualization that there must be increasing readiness to deal with new and imaginative programs designed to cope with the kind of factors that are displayed by Franklin K. Lane, and all too many of the other high schools under the Board's supervision within city limits. These will be increasingly characterized, apparently, by high truancy rates, the constant threat of early school leaving and, very likely, a radical shift from regarding the academic high schools as performing their traditional role as college preparatory schools for four year colleges.

Hence, from the point of view of the Board, what must be and is done, to the extent that resources permit, is to bring to bear upon Franklin K. Lane—because of its school population problem—guidance services and supplementary services made available out of tax levy and reimbursable funds through allocations which take account of the educational problem that registrants in Lane present. The data showing the distribution of such funds are given in Exhibit A in Appendix B on pages 196-197 and in Appendix D at pages 202-204 (these two pages continue each other and page 203 should follow them), Lane is shown in Appendix D, page 202 to have 28.6 tax levy guidance service positions and 4 guidance positions from reimbursable funds (State and/or Federal), making a total of 32.6 guidance service positions, a ratio which is far better than that of most other schools. It will be seen that only Charles E. Hughes, George Washington, Haaron and Louis D. Brandeis have higher ratios than Lane and each of these schools is, like Lane, one which has serious population problems characterized by reading deficiency, low pupil attendance and radical racial or national imbalance. (The separate profiles of the schools are given for Hughes at page 8, Wash-

ington at page 10, Haaron at page 12 and Brandeis at page 18.) Appendix B at page 196 shows, in effect, the funds allocations to Lane in terms of costs per subject-period of tax levy and total funds (that is, including reimbursable funds), and the ratio of pupils to teachers in terms of subject periods. It will be seen here that Franklin K. Lane's ratio is again advantageous, although not the best. The allocations of funds (explained in the early pages of the books) is based on a set of formulas which take account of objective data related to need for supplementary teaching positions and other services. A survey of the formula amounts, given at page viii and ix, shows that the amounts that can be allocated in terms of class size reduction, or improving the ratio of instructors to students, are at best modest in the extreme. Thus guidance services are allocated in terms of one guidance position for each 390 pupils retarded two years or more in reading; the standard allocation is one to 460 pupils. Teacher allotment for students retarded more than two years in reading is based under the formula on an average class size of 29.5; for other pupils the allotment is one for 31.5 students.

A great deal is no doubt done for Lane, and, within the school, as the principal has outlined it; a number of programs have been initiated which seek to work, from the school as it is with the population that it has, in the direction of giving the student population the kind of education that is suited to their needs and desires, and which seek to orient the educational effort to the actual life situations of the students, their tendency to truancy and early school leaving, and their fundamental human bent toward seeking employment and employment opportunity.

Special programs in operation at Lane which are addressed to the educational handicaps of the student body are several in number. The one most frequently referred to is the "College Bound" program, which is a reimbur-

sable program and has some federal funding. It embraces an aggregate of about 300 students drawn from three different school years and is intended to give special assistance and a more intense educational experience to students of promise who nevertheless have some educational handicap. The program devotes double the usual amount of time to English, and the English class-sizes are put at twenty. Social studies classes are set at fifteen to eighteen, mathematics and science classes at about fifteen. It appears that the program has successes, but the principal of Franklin K. Lane High School points out that a very much larger proportion of the school ought to be receiving precisely the College Bound kind of more intense educational effort. From the principal's point of view the present College Bound program illustrates what can demonstrably be done with considerable success, and what should, therefore, be done for a very much higher proportion of the school population.

A second program is "Towards Upward Mobility" which embraces some one hundred students. It is addressed to encouraging students to continue in school, and it establishes a tie between work in the outside world and in-school education.

A smaller group, some 20 to 25 students are in the STEP program (School To Employment Program). The program again attempts to integrate school education with reference to real-life working. A group is engaged in Homework Helpers. The students engaged in this program are in effect compensated for supplementing public assistance kinds of services rendered to impoverished homes. Some 75 to 100 students are engaged in the Franklin K. Lane Urban Affairs Program which uses a modified curriculum and emphasizes the link between school work and employment with particular reference to public employment in city departments as well as in industry and commerce.

Memorandum

A program identified at first as a vestibule and later as a venture program was designed with particular attention to the problems of, and reflected by, students who truant. The program utilizes a shorter school day, two teachers to a class, and a smaller class registration, together with a loose program of work-study, again oriented toward city work. The register of the program is 1,000, but as a practical matter it deals with but 300 students at a time who in effect rotate through the program cyclically. There is a key teacher assigned for the entire day and a second teacher is available for one period a day. There are eight groups of 130 each, and 16 teachers in the total program.

On the other hand an experimental program of some promise, which has in part been under test at other high schools visualizes the establishment within the administration of a single high school of "alternative school". It would enroll 125 or so students with a teacher-to-student ratio of 1 to 25, with one additional teacher assigned to the entire group. The program would preferably seek premises outside the school building, so that the group could be educated together away from the principal school building in the interest of having a separate entity and an individual esprit. The programming of work and study in the alternative schools would be characterized by independence from the prescribed curriculum, but it would constitute an alternative curriculum and not a rejection of high school type education. The effort is to develop under the general supervision of the high school another kind of institution and another approach to learning and teaching for those students for whom the established schools and school curriculum do not work. It is visualized that the alternative school could be the focust of an effort which could attract special help from tax and reimbursable funds. It would be feasible, for example, for an alternative school to make special use of reading components set up for remedial work

in the reading area with State assistance. The alternative school approach would not be a way of disposing of unwanted students in the interest of those remaining in regular instruction, but of attacking directly the task of working effectively with students who, for whatever reasons of background, motivation or interests, are not responsive to regular curricular instructions but whose capacities and bent will respond to differently planned educational effort. A number of alternative schools have been set up including several at Boys High School, but while Lane projected schools and carried the planning a good distance, there was no effective follow through, in part because sites away from the high school building were not obtainable—possibly because of slow response from the Board in taking advantage of the school administration's location of the site considered adequate.

The nature of the special programs proposed or initiated for Lane throw a good deal of light on the nature of the educational problems faced by the City of New York with its present school population, and on the resourcefulness with which the educational problems are sought to be solved effectively by planning in terms of the school population as it is. The approach recognizes the handicaps, the needs, and the native orientations of the school population as valid, and as marking out areas calling for educational response, and not for rejection in favor of an imposed stereotype of what the high school student should be and be made to become.

But the very emphasis given in the Board's evidence to what might be done at Lane, in addition to what is being done, hardly answers the zoning question that Lane presents. On the contrary, it rather emphasizes that Lane represents a place upon which imaginative programming must be trained simply and because in some very considerable part, it has become a victim of zoning boundaries.

Much that is imperatively needed at Lane in the way of supplementation of normal school position allocations and so on would appear inevitably to sap the strength of the total educational effort of the school no matter how effectively the school employed fresh programming, because the inescapable truth is that there are not nearly enough resources in the entire City educational system to deal adequately with its total educational problems. The consequence is that, to an extent which is clearly revealed in the 1970-71 school profiles, the special programs and the remediation is in part effected at the expense of classroom teaching and the preservation of optimum student-teacher ratios throughout the system. The special programs call for special positions, and special positions and supplementary assistance are simply not in existence in the numbers needed. The consequence is that they are, however, surreptitiously, plainly borrowed from teaching staff. The consequence of that in Lane's case appears to have been the steady weakening of the regular academic program and the drying up of courses once offered. Although the need for such course work may have diminished as other programs have been attempted because of the shift in the composition of the school population, the general impoverishment of total educational effort is nevertheless present.

While it is neither demonstrable nor, certainly, quantifiable, the administration of the school is satisfied that a consequence is that Lane suffers in reputation and, in consequence of that, is the victim of subterfuges which deny it the better qualified students who might have registered in Lane if its reputation had not become what it has become. It is suspected but cannot be demonstrated that students who live in the Lane zone use the addresses of relatives, or actually go and live with relatives who are outside the Lane district, so that they can avoid attendance at Lane and go to other schools. It is not possible to say

that the intuition of the school's administration is unrealistic or impractical.

The Board has pointed out that in a certain sense capital relief is at hand for Lane in the planning of three new high schools. North Central, which would be located between Madison and Midwood High Schools, a new school at Atlantic and Schenectady Avenues, which would replace Boys High School and draw additionally upon the western end of Lane's district, and a Northeastern high school to be built in the Bushwick area, and which might be used to replace Eastern District High School altogether. The North Central High School is projected to open in 1974. The school to be located at Atlantic and Schenectady Avenues is under construction and while its projected completion date was 1974 it is already apparent that it will be late in completion. The Northeastern unit in the Bushwick area is more remote in time. The existence of the projects of course is relevant to the consideration of the Lane situation, but when the schools are ready to go on stream the resources that they will bring to the educational problems will be additional and will not be any more effective, or useful to Lane, if zoning patterns are frozen until they open either in the case of high schools generally—and that has not been the Board's practice—or in the case of Lane.

The Board has suggested that in part Lane's problems stem from its insistence upon the maintenance of a single session school. The Board contends that the single session school complicates the security problem at Lane because it means that there are more occasions, such as luncheon sessions, at which security problems tend to erupt or to be concentrated. The Board suggests that end to end sessions at length would reduce the frictions that the school presently has internally and with the neighborhood. The school's administration on the other hands insists that the parents of the students and the people in the community in which

the school is located are resistant to anything approaching end to end sessions because of the late hours such sessions impose on the students who have to travel home after the second session, and, from the community point of view, would maximize their frictions with the school population. The question of single session, overlapping session, and end to end session must be considered as under continuing review by the school administration and the Board. The very terms of the discussion indicate that to some extent it is related to the zoning problem itself which can in one sense be expressed as involving the problem of a school with a very high ratio of black and Puerto Rican students travelling from a distance into a school located in an area which at least in the immediate environs of the school is predominantly "other" than black and Puerto Rican.

The most recent of the intensive studies of the school has brought about the development of a $50,000 grant for redesign of school programming; again, that effort is not related to zoning, but to dealing with the consequences of the concentration of educational problems in Lane which may itself be in some part a consequence of inadequate zoning. The same meeting between school and Board officials that gave rise to the grant touched on work already under way on the security program; some of that work originated in the student body itself, through the suggestion of a school-marshal program; attention is currently and recurrently given to the further exploration of the possibility of working out some program looking to diminished use of outside security forces, including the police, in favor of school self-discipline.

The case is one in which the unmistakably advertent action of the Board over the years has countenanced and sought to compensate for a known and intensifying racial and ethnic imbalance in Lane, but has failed to accord the school districting that can be justified by any standard rele-

vant to educational or neighborhood or geographical considerations or to overriding community interests or to continuity in education. There remains no justification for the skewed district and its direct effect in producing an imbalanced school population. While the Lane district extends into Queens, it remains a fair inference that an artificial and unwarranted effect has been produced by treating Lane as a Brooklyn school to be districted primarily in a pattern for Brooklyn school to be districted primarily in a pattern for Brooklyn schools rather than as part of the complete pattern of all the schools, without reference to borough lines or borough-oriented administrative organization. *Cf. Swann* v. *Charlotte-Mecklenburg Board of Education,* 1971, 402 U.S. 1, 27-29; *Lee* v. *Nyquist,* W.D. N.Y. 1970, 318 F.Supp. 710. Note *Pride* v. *The Community School Board,* 2d Cir. 1973, 488 F.2d 321, 325.

As the redistricting of Lane affects other schools necessarily, and must impinge on the annual redrafting of school district boundaries, counsel are directed to submit on notice of ten day orders providing for the redistricting of Lane within the pattern of the pending redistricting. Such orders are to be served, with such ten days notice of settlement, within thirty days of the date of this order.

It is ORDERED.

Dated: Brooklyn, New York
May 16, 1974.

D. J. Dooling
U. S. D. J.

Order

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

71 C 502

CHARLES DEFELICE, *et al.*,

Plaintiffs,

against

THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, *et al.*,

Defendants.

After the decision of May 16, 1974, the Board of Education conducted two public meetings (May 24 and 31, 1974) on the redrafting of th eborders of the Franklin K. Lane High School zone. At the second of the meetings a rezoning proposal in tentative draft form was presented and distributed by the Board and it has been the subject of extended comment not only at the May 31, 1971, meeting but by representations sent to the Court. Copies of all communications received by the Court have been forwarded to counsel on both sides.

Chancellor Anker advises by affidavit that thereafter he submitted a proposed plan to the Board which it commenced to consider this week. Since the Board will be reconstituted and enlarged at June 30, 1974, and the rezoning affects the High School zoning plans of other schools, the Chancellor advises that the present Board con-

siders it useful and desirable that the new Board members participate in this weeks consideration of the plan.

The many communications received reflect deep and widespread concern with the rezoning, its effect on the kind and quality of the educational effort that will be possible in the rezoned school and the technique of managing the transition so as to minimize tensions in the school population and with the neighborhood. There is evident also in the communications received a misapprehension of the tentatively proposed plan offered at the May 31 meeting and of the way in which it would operate.

The March 7, 1974, Brooklyn High School zoning plan presented by Chancellor Anker to the Community Board members, Superintendents, Executive Directors, Directors, Heads of Bureaus, Principals, and Presidents of Brooklyn Parent Associations would not have radically altered Franklyn K. Lane's zone boundaries for the school years 1974-1977, would have increased utilization slightly (to a projected 102%), and anticipated that the school population would have been, for 1974-1975, 62% black, 21% Puerto Rican and 17% "other." That Zoning Plan was questioned in a Statement of the Regents Approved in the Committee of the Whole on May 23, 1974, and the Regents requested the Commissioner of Education to confer with Chancellor Anker to revied the Plan, obtain additional facts, ascertain the validity of the tentative conclusions of the Department of Education, consider possible alternative plans to achieve integration, and to report his findings and conclusions to the regents by July 15, 1974.

Plaintiffs have proposed that the tentative proposal of May 30 be ordered into effect beginning with the fall of 1974. That proposal contemplated that over the next four years the school population of Lane would be so changed that in the year 1977-1978 all four "years" in Lane (freshmen through senior) would be 51% or 52% "other," and

there would not be a reduction in the "other" population of the three schools directly affected by the rezoning of Lane in excess of 3%. In annual terms, 600 students would be zoned out of Lane and 570 rezoned into Lane.

It is evident that more time is needed to determine whether the tentative proposal can be adopted, and that a hearing on the final proposals of the parties must be held on notice that affords an opportunity for responsible public expression of views. The time for submission of final proposals is therefore extended until July 15, 1974.

It is so ORDERED.

Brooklyn, New York
June 21, 1974.

D. J. Dooling
U. S. D. J.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

DE FELICE, et al., :

Plaintiffs :

71-C-502

-against- :

BOARD OF EDUCATION, et al., :

Defendants. :

----------x

United States Courthouse
Brooklyn, New York

August 2, 1974
9:30 o'clock A.M.

B e f o r e :

HONORABLE JOHN F. DOOLING, JR., U.S.D.J .

EMANUEL KARR
OFFICIAL COURT REPORTER

I Hereby Certify that the foregoing is a true and accurate transcript from my stenographic notes in this proceeding.

Official Court Reporter
U.S. District Court

Appearances:

MORTIMER TOBIL, ESQ.
Attorney for Plaintiff

ADRIAN [illegible], ESQ.
Corporation Counsel, City of New York
Attorney for Defendant

BY: DONOL[illegible]ELLIS, ESQ.
Of Counsel

THE COURT: Good morning, ladies and gentlemen. Tell me if I am not audible. Raise your hands if you can't hear me.

You all know the purpose of our meeting, and I think you have seen outside the list of speakers. Let me tell you in a word what our program is:

Without any definite commitment to anything, but simply because it is our starting point, what is displayed on the easel is the City's plan, or the Board of Education plan, with, I think -- most of you have received copies of it or have had available to you copies of the City's Plan, or the Board's Plan.

We will start by having Mr. Gopstein, Corporation Counsel, explain and present the City's Plan.

Mr. Todel, who has from the start, as you know, represented the plaintiffs, will then have his -- I think it would be fair to say -- modification, suggestions and modifications presented, and then we will have the United Coalition Program, if I may call it that, or Plan, presented.

I might ask, Mr. Gopstein, when you are at your presentation, if you would be good enough clearly to point out where Pennsylvania Avenue is, which will figure in the discussions today, so that that will help people to orient themselves on the map, because,

you know, the exact orientation of the map is not too clear and I know you can't all read it.

By the way, if you would feel that you were in on this better, don't hesitate to move forward. You see, we put in these auxiliary chairs in front -- we use this room for naturalization, and the people who come to naturalization are usually in the order of over 200 people, so we have these supplementary chairs here.

Move forward so that you can see better and participate more actively, at least with your ears and your eyes.

As we go ahead, the speakers will be asked to come up to the lectern, which is at my left, your right, between the clerk's bench and the easel with the map on it.

I know we have, as you see, some 30-plus prospective speakers, and it will be important for us, therefore, to keep our eye on the time. But nobody is to be decapitated. If we have to resume Monday we will resume Monday so don't be too concerned about that.

At the same time, I think an attention to good order means that we ought to do our level best to avoid repetition and extensions of remarks that are not

really helpful; otherwise, you see, there are those here who, perhaps, can't stay to the bitter end and who might lose their voice because of the protraction of proceeding.

What we have done in setting up the arrangement of speakers is really to be guided as nearly as we could be by geographical considerations. It is not a ranking of importance of interest or anything else.

It was our effort, quite without any intention to favor or disfavor anyone, to set up a pattern that moved around the core part of the Franklin K. Lane zone from west to east. So that it sort of goes in a semi-circle.

We realize that it starts right out with the coalition representative speaking, who in a sense would speak for everybody, but that I think we will have to work with as we go along.

If some other order of speakers becomes obviously appropriate as we go along, I think we will have to seize such opportunity as the occasion presents to us to change the order of speakers.

I don't intend to impose any limitations of time, but I would ask you all, knowing the number of speakers we have and the time available to you, and

that you assume is available to others, to make your remarks as pointed as you can and to confine them to the fewest number of moments or minutes that you can.

We have an example from our representatives in Congress of how one can fit remarks into arbitrarily enforced packets of time. Well, I don't want to enforce any packets of time arbitrarily, but I think they gave us a lesson in how to be pointed when you have something you really wanted to say.

All right, Mr. Gopstein. Let me say this, if any of you have reduced your remarks to writing and will be very largely reading them, would you be good enough, when you have finished your remarks, even if you may have departed from them a little bit here and there, to give them to the court reporter, or leave them right in front of him on his desk there.

We won't keep them, because what we will do is make a Xerox copy of them for the court reporter and return the original to you so that if, anytime in the future, you do have occasion to consult the transcript, you will also have in your hand the paper from which you read or which you used in the course of your remarks.

All right, Mr. Gopstein.

MR. GOPSTEIN: Thank you, your Honor.

Your Honor, I think before getting to a description of the plan a few preliminary remarks I think about this proceeding might be helpful to everyone here, because the history of this action, of course, goes far back from May of 1974, when the Court's order came out and became fairly well known in the Brooklyn and Queens area.

THE COURT: Would you want to come over here, there is a microphone that you can use here, Mr. Gopstein.

MR. GOPSTEIN: I would prefer here only because of reference to notes and other documents.

THE COURT: Very well.

MR. GOPSTEIN: If everyone can hear --

THE COURT: If so, if you can't hear Mr. Gopstein, raise your hand and he will raise his voice.

MR. GOPSTEIN: Certainly.

This action was commenced approximately two years ago by a class of plaintiffs who represented themselves -- they were the class of children attending Franklin K. Lane High School, black children, Puerto Rican children, white children.

We had a trial six or seven days long some time

ago, and there was a great deal of evidence introduced by both sides, a great deal of maps, a great deal about the history of Franklin K. Lane, going back 10, 15 years.

Then, as is the normal procedure, sometime later, the Court issued an opinion and the opinion of the Court came down in May, May 16, 1974.

The Court essentially found that Franklin K. Lane High School, as it presently exists, was an illegally segregated school. Of course, that term has certain legal significance in the context of court decisions on school desegregation.

I might point out, it does not mean that anyone intentionally segregated the school, but it does mean that the pattern that developed was found by the Court to be one of segregation.

Therefore, the Court ordered that a redistricting plan be submitted by the plaintiffs and by the Board of Education, the defendants, and this was in the last paragraph of the Court's order. which told counsel to submit plans within a certain amount of time.

(Continued on next page.)

fols.

The Board of Education, of course, has taken a position in the lawsuit which we are certainly not relitigating here, that is part of the trial. The Board, as well as the plaintiffs, were ordered to submit a plan which would comply with the decision of the courts. This the Board of Education has done, and it has attempted to do this in good faith, trying to comply with the letter and the spirit, as we understood it, of the judge's decision.

I might point out that in the very comprehensive opinion of the Court there are a couple of things that apparently the Court felt were very important about the history of Lane. One of them, of course, is that looking at the ethnic breakdown of Franklin K. Lane over the past ten years, the population has very dramatically changed from predominantly white to predominantly minority: black and Puerto Rican.

At the time of the trial, and now also, Franklin K. Lane is approximately 80 percent minority, maybe currently 83 percent minority.

The Court discussed, and instead of characterizing it, I think it is important to just read from -- this is right near the end of the Court's decision, so that perhaps everyone can understand

what it is that the Board of Education was responding to when it proposed the plan that it did.

Essentially, the Court talked of a known and intensifying racial and ethnic imbalancein Lane, an imbalance which the Court felt should have been dealt with more directly than it has in any rezoning proposals of the Board in prior years.

In addition, there was a great concern about the apparent use of the Brooklyn-Queens border to somehow isolate Lane as more of a Brooklyn school than a Queens school. This became important because, as the evidence showed, Franklin K. Lane was approximately 80 percent minority, and certainly there were schools to the south of it and to the west, such as Boys, Prospect Heights and others, which also had a very high minority percentage. But the schools to the east and to the north in Queens had a very high percentage of what, in Board of Education jargon, is called "others," which includes essentially white and other, say, non-black and Puerto Ricans, but basically it is the white group.

Those are three schools in particular: Grover Cleveland to the north, which, based on 1973 figures, has an 81 percent white population; John Adams and Richmond Hill to the east, which respectively have

74 percent and 64 percent white population.

The Court, in examining these figures, said as follows:

While the Lane district extends into Queens, it remains a fair inference that an artificial and unwarranted effect has been produced by treating Lane as a Brooklyn school to be districted primarily in a pattern for Brooklyn schools rather than as a part of the complete pattern of all the schools without reference to borough lines or borough-oriented administrative organization.

Then the Court ordered that the Board submit, and the plaintiffs submit, a plan for redistricting.

It is fairly clear, I think, that if you are going to redistrict and if you are going to change the ethnic balance of Lane, there is only one direction in which it can be done, you cannot go in the other direction, those are minority areas, the areas obviously are the areas that the Court focused in on. Thus, the Board proposed a plan which would comply -- the Board composed a plan which would comply with the decision and the opinion of the Court. The Board feels that it has done its best to try to achieve a result consistent with the opinion of this Court.

The plan that has been submitted, and I believe

has been widely distributed, contains two parts -- the zoning plan, there is a separate plan for educational redesign, which is not part of the zoning plan but is relevant to an understanding of the Board of Ed's plans.

Let me deal first with the Franklin K. Lane zoning proposal. When the order of the Court came out on May 16, the Board of Education immediately began to have its technical people who are involved in such decisions, people in the high school office, people in the zoning office, begin to submit tentative draft proposals pursuant to certain guidelines issued by the Chancellor's office, and of course those guidelines were intended to be consistent with the Court's decision, and a tentative draft came out, some public hearings were held, many people addressed themselves to these, there might have been some changes of the plan.

Ultimately, through many revisions, the Board submitted the plan which has become known as the Board of Education Plan, on July 15, 1974.

In the rezoning of Franklin K. Lane, there are two parts, first the geographical rezoning, and how that would affect the ethnic balance of the schools involved, the schools who gain students, the

schools who lose students; and, secondly, the question of the timetable for implementing the plan, which is a separate issue.

First, let me describe, or really have the pla describe, what the rezoning is in a geographical sense. Without going through all the little streets that the border would go through, the map over there indicates in various colors the areas that would be added to the Lane zone and the areas that would be taken away from the Lane zone.

In the western part of the district, which is marked in yellow, is the part of Lane which would be taken out of Lane pursuant to the rezoning. That is an area towards Ocean Hill-Brownsville, and I suppose further on to Bedford-Stuyvesant, which, of course, is predominantly a minority area.

In the other three colored areas, the pink, the green and the blue, those are areas that are presently zoned respectively to Grover Cleveland High School, John Adams --

THE COURT: I wonder if you could point it out on the large map, Mr. Gopstein.

MR. GOPSTEIN: The orange borders over here indicate the current zone of Franklin K. Lane High School and, as I am sure most people are very well

aware, the Brooklyn-Queens line runs somewhere around here, so that this part of the district is in Brooklyn, the high school is located over here just about physically on the Brooklyn-Queens line, and this area of Queens is the only area of Queens zoned presently into Franklin K. Lane.

Under the proposal of the Board of Education, this area here in the western part would be rezoned elsewhere, and I will get to the question of where the students will be rezoned from, because that is very important. You don't just cut off an area, throw it out and say, "Now let's see what we do with the rest.

So the question of what you do with the students, 600 students who are black and Puerto Rican, who would have attended Lane and now have to go elsewhere, what you do with them, what kind of options you give them, what kind of guidance you give them, what kind of opportunities you give them, that is a very, very important part of the rezoning of Lane.

In fact, these students here are part of the very class that brought this lawsuit.

This is the Grover Cleveland area in orange or pink which is presently in Grover Cleveland but would

be in Franklin Lane under the new zone. This is the area from Richmond Hill's High School which would be rezoned into Lane, and this is the area from John Adams which would be rezoned into Lane. So that the new district would, of course, extend more this way, more this way, with the results which I will now discuss, the ethnic results that are anticipated from this change.

THE COURT: If I can test this on your patience, could you do two more things, if you can find it readily, I know it is a little hard on that one -- point out where Grover Cleveland's school building is. It is a little hard to find.

MR. GOPSTEIN: I think we once spent 10 minutes -- it is not located on this map, which was meant for Community School District maps, but I believe it is in this area right around here (indicating).

So that the new Grover Cleveland zone -- I believe we do have a map there -- Grover Cleveland is right here. (Indicating.)

I will see if we have it more clearly on this map. I will just superimpose this for the purpose of identifying the school. I hope you can see this.

This very faint red line would be the part of Grover Cleveland that would go into Franklin Lane and

this triangle here is Grover Cleveland.

Similarly, this us Richmond Hill High School and this area from Richmond Hill would go into Franklin Lane, and this is John Adams High School, and this area from John Adams High School would be zoned into Lane.

I think, your Honor, as far as the question of Pennsylvania, the location --

THE COURT: Yes.

MR. GOPSTEIN: I think that figure is in the plan of Coalition --

THE COURT: That's right. I think if you go at the very tip of the cemetery.

MR. GOPSTEIN: I do have it here.

Pennsylvania Avenue runs north-south in this direction, so that you can see it is almost the border on the present Board of Education plan, and I think in the proposal of the Coalition Group this would be the western border of Franklin Lane, so I think really the only difference is that there is this additional small area which would be --

THE COURT: It is a triangular sort of area.

MR. GOPSTEIN: Covering about 10 blocks, really, with just an avenue width, which is in the Board of Education zone and presumably would not be

in the zone proposed by the Coalition Group.

The Board in its plan has included statistics -- these are always projections, and it is a very inexact science to try to figure out how many children and of what race would go from school to another if you did this or if you did that, but you do have some basic statistics, you have an idea of population patterns, you have an idea of whether the area is high-rise or low-rise housing, et cetera. And based on that you try to project what the effect of zoning plans would be.

Those figures would produce the following changes: First of all, the area that would be cut out from Franklin Lane in the western part has roughly 600 children who in the past -- or in the future would have attended Franklin Lane but would not under this plan.

THE COURT: That would be annually, roughly 600 children would come from the cutoff area to attend Franklin Lane, if all of them attended?

MR. GOPSTEIN: This is the entering class, not the cumulative four-year figure.

So 600 a year instead of going to Lane would be going somewhere else under this plan. More specifically, the -- there are really four junior

high schools or intermediate schools involved here. The largest ones are Intermediate School 271 and Intermediate School 255, which have been sending their graduates into Lane. Approximately 500 who would have gone into Lane would now have options to attend other schools in Brooklyn and in Queens. In addition, another hundred youngsters who graduate from Junior High School 57 and Intermediate School 35 also have been in the past zoned into Lane and would now be zoned to the same -- would be given options to attend the same schools that the first would.

So you have a total of 600 students annually who would have attended but who now would be zoned elsewhere. They would have 11 schools that they could choose from. They would not have an assigned zone.

Perhaps some of you are familiar with open admissions programs. This is slightly different in the sense that an open admissions program usually means a program where a child has a home zoned school but has the option of attending any one of the given number of schools elsewhere.

These are programs conducted for purposes of school utilization, integration and other considerations relevant to that.

In this plan there would be no zoned area. In other words, every one of those 600 children will have to make a choice, or their parents would with them, of course, as to which of the schools they will attend, or they would like to attend in an order of preference; these are:

Thomas Edison, Forest Hills, Newtown, William Bryant, Grover Cleveland, Franklin D. Roosevelt, William Grady, James Madison, Sheepshead Bay, New Utricht and Lafayette.

That is quite a large number amongst which a choice has to be made.

Of course, once the choices are made then comes the process of trying to give first preference, things of that sort. Those are essentially the schools that the students who are zoned out of Lane would have a choice of attending.

The students who are zoned into Lane -- in other words, 600 out of Lane and approximately 570 students are projected to attend in those areas that would be zoned into Lane. According to the Board's plan, 321 would be students who otherwise would have attended Grover Cleveland, 204 would be students who otherwise would have attended John Adams, and 45 would be those who would have attended Richmond Hill, for

a total of about 57. So you have roughly 600 going out and 570 coming in. Again, these figures are only for new entrants.

Again, also, it is pretty obvious, I think, that all those students who would be zoned elsewhere are minority students in that area; the students who would be coming in living in those areas would, of course, most of them would be white students because of the neighborhoods that are being dealt with.

The Board's plan includes, of course, a very precise description of these zones and I certainly don't have to describe that.

The second important part of the plan has to do with the implementation. That is this rezoning and the educational re-design of Lane, which is not part of rezoning but completely tied to it, when these things would take place.

The Board of Education has submitted to the Court two alternative plans, one of which would begin re-assigning new children into Lane in September, 1975, Plan A; Plan B would begin re-assigning children into Lane in September, 1976.

I will read just from the Board's plan because there are a couple of thoughts that are common to both plans, whether you start it in '75 or you start

it in '76. The Board says that both plans recognize that before zoning changes can be effective time is required to notify parents and students of zoning changes and to familiarize students involved with the high school choices available to them. Under both plans, the 1974-'75 year will be used to inform and guide all parents and students involved. In order to improve the likelihood that the rezoning will be successful and actually result in an increased percentage of "others," attending Franklin K. Lane, the Board of Education needs the 1974-'75 year to implement an educational re-design. Both implementation plans recognize this need.

So that it is the common denominator of both plans that the Board is submitting.

I will get the starting point. In Plan 2, what would happen, the first new students would come in in September of '74, but in September 1975 no new students would be admitted into Lane, no white students, no black students, nobody; in other words, there would be no entering class. If that would have been the normal entering class, of course, that would have been approximately 80 percent minority.

So what that means is that since there are 1200 students, approximately, in the entering class in

Lane, 1200 students will have to be rezoned elsewhere, not just 600 that would later on be on an annual basis, but 1200 will have to be found places in schools, which is a fairly large number. They will be given options among the schools.

In 1976 -- that would be the first year under this plan where students from the new Lane zone would attend Franklin K. Lane, so you will have had one year where there is no entering class and the second year where this non-existent ninth, tenth grade moves up a notch, and replacing it as a new entering class is the students from the new zone, including students from the three new areas in Queens.

The Board has submitted projections of what the ethnic balance of Franklin K. Lane will be by grade for each of these years under each of these plans.

It is projected in the Board's plan that in 1975-76, when no class is entering at all, you then have essentially a tenth, eleventh and twelfth grade in the school, the school would still be approximately 80 to 85 percent minority, as it is now, but it would be, of course, for a much lesser number of students because 1200 are just not there.

In the next year when you have your entering students who are both in the ninth and tenth grades,

it is anticipated that that class will be a 50-percent white and 50-percent minority; these are the projections that we have here. That will mean that the school will then be, in that first year, approximately 31 percent white, and in the two subsequent years, as this plan continues, would become 42 percent white and 50 percent white. That is Plan A.

I would also read another paragraph here from the Board's plan which it was felt was relevant to a consideration of this proposal.

The Board has stated: The current feeder zone for Franklin Lane includes a substantial number of "others" students in its residential pattern. This number of "others" would, if they attended Lane, make a substantial difference in the racial composition of the school.

"The large number of 'others' students in the existing zone, and, indeed, in the close vicinity of the school, who do not enroll at Lane are a significant indication that new areas added to the zone would not add large numbers of 'others' students to the register at Lane unless the parents and students in the new zone are convinced that Lane will have a substantial of 'others' in the first year the rezoning is implemented."

"The recommendation implicit in Plan A is that part of the school be phased out so that the school may be given a fresh start and a new image.

"It is anticipated that if the parents and students in the new zone see that major changes have been made and are being made in the racial composition and the educational program at Lane, then they will be more likely to decide to attend Lane."

This is from the Board's proposal.

B is different in that under the plan students will be admitted to Franklin Lane from the new zone in September '75 instead of September '76, so what you would have is that in September '75, in effect the rezoning would go into effect with that area being cut out, approximately 600 students, and approximately 570 coming in.

It is projected that in this case the entering class would be, as was the entering class in the other case, approximately 50, 51 percent "others."

The school, in the first year, would be 24 percent "others" and in subsequent years 32 percent, 39 percent and 50 percent as these grades move up through Franklin K. Lane.

In addition, the Board has submitted its projection of the effect of the Franklin K. Lane zoning

on the other schools involved. These are the ones we know specifically: In terms of the percentage of "others" or white students, the three high schools involved would change in the following way from October of 1973 -- the first figure I will read is for 1973 and the second one is the projection for 1978-79, which, when the plan will be fully in operation, with four years having moved up through the school.

Grover Cleveland is presently 81 percent "others," would then be 70 percent. John Adams is presently, or in 1973 was 74 percent; projected to be 70 percent.

Richmond Hill is presently 64 percent; projected to be 60 percent.

Franklin Lane is presently 16 percent white and it would be 50 percent.

There are lots of other schools involved here which are more difficult to project, because the students zoned out of Lane, minority students predominantly, have the option of attending 11 other schools, and the ethnic balance and the utilization levels of those 11 other schools would, of course, be affected by the number of students coming in.

Many of those schools are presently quite

overcrowded already, but they would be required to take these students under this plan. This would be the natural zone of these students.

That is essentially the rezoning proposal of the Board geographically and in terms of the two time-tables. Again, all these figures of how many students would come in and out are figures for new entrants.

In other words, no children who are presently attending schools would be moved out. It is usually the policy in rezoning decisions that if you are attending a school you are not rezoned, but you would usually deal with new students who would come in.

The other part of the plan -- it is not really the plan, but which was submitted to the Court, I suppose as an appendix to the rezoning, was entitled the Educational Re-design of Franklin K. Lane High School for Implementation 1974-75 through 1975-76.

During the trial of this action there was a great deal of testimony regarding some of the educational problems in Franklin K. Lane. That may or may not be directly relevant to a find of zoning segregation or to rezoning, but certainly it is a very important educational problem and whether it is or is not part of the Court's decision is something the Board of Education intends fully to deal with.

What it has submitted, although I believe it was not strictly speaking required by the zoning proposal, is a plan for re-designing Franklin K. Lane in a very, very substantial way in the next few years.

It would take place through the establishment of an advisory committee which would then name a smaller task force to work this out. The advisory committee would consist of people and institutional representation, not just from the Board of Education and its personnel, but from the community and from various other groups: college representatives, community representatives, parents associations, et cetera, who would all be directly involved in trying to redesign the kind of educational program that would be desired.

The Board's submission states that in the year beginning 1974 the Commission will establish a task force to design the new school as an attractive comprehensive high school. The rest of this plan contains various suggestions and proposals. These are still very much in outline form, and of course if the advisory commission and its task force get to work -- this is part of the educational planning which would go into effect immediately in September

of this year to gear up for changing the school so that when the new entrants come in in 1975 and '76 the school has changed very substantially.

One of the suggestions is that the school be organized into four schools, which would be much smaller, with an assistant principal in charge of each, with very strong guidance program and centered around the concept that has become increasingly proper, sort of a school of urban studies, labor relations, commerce and business, but oriented towards particular subjects.

There are a great many other details here but I don't think I should go into these at this time. The Board has made it clear in its zone proposal that one of the things that would happen in 1974-75 is very active work on the re-design which obviously can't place in just a week or two or a month or two.

By 1976 it should be probably fully operative, but 1975, a little less so, but also very much in operation.

I think that is pretty much the description of the plan, and I would just point out, your Honor, that although I am not exactly sure of our schedule, but I do have available here a person from the Board of Education who could testify about some of the

problems that we would encounter if we attempted to implement the rezoning in September 1974; in other words, in approximately three or four weeks from now.

Of course, Mr. Todel will present the plaintiff's plan, but he would be ready to discuss some of the technical issues involved in gearing up in a three or four-week period.

(Continued on next page.)

EK:jm
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THE COURT: I should say to you if any of you have not had available to you a copy of the Board's plan and of the educational redesign pages, we have a few copies of it and more can be made, and if we do not have enough to go around we will see, if you leave your name and address, that one is mailed to you, that is if we have not got enough to go around at this time.

Now, Mr. Todel.

MR. TODEL: If it please the Court;

Mr. Gopstein;

Ladies and gentlemen --

THE COURT: You are inaudible.

Do you want to take advantage of the microphone arrangement?

MR. TODEL: I will speak a little louder, please.

THE COURT: All right.

Don't be discouraged if he doesn't; if he still isn't loud enough, let me know.

MR. TODEL: As I was listening to Mr. Gopstein present the Board's plan --

(Members of the audience indicated that they could not hear.)

MR. TODEL: OK, OK.

(At this point Mr. Todel took a position before the microphone.)

MR. TODEL: As I was listening to Mr. Gopstein's presentation of the Board's plan, I really felt it was important to give you some perspective as to why this particular lawsuit was brought and when it was brought and the reason why it was brought so that you could then grasp that the reason why the plaintiffs, and I am presenting the position of the plaintiffs in the two positions they do take, why there should be an immediate implementation of the plan proposed by the Board of Education with reference to the geographical distribution.

This suit was commenced in May or at the end of April, 1971, because of the fact that the teachers, the students, the community and the larger community of the City of New York was concerned about what was happening at the Franklin K. Lane High School, the fact that many students coming there were not being educated, that the dropout rate was one of the highest in the City of New York; that the disciplinary problems were pretty horrible and that on the whole there was a very small number of children being educated in this particular high school.

When I was approached to represent the plaintiffs in this case, I met with the teachers, I met with the community, or some of the community, I met with parents, black, Spanish-speaking and white, and I met with some

of the students here at Franklin K. Lane High School.

Now I am not a resident of Brooklyn or Queens and I was not familiar in detail, although I have always been a resident of the City of New York, and a product of the school system of the City of New York, and my daughter attends a public high school here in the City of New York and I am aware of many of the problems which had existed here, possibly in the Bronx and Manhattan, which are similar in nature to those that existed in Brooklyn and Queens, and when certain facts were presented to me it was my opinion as a lawyer that there was a serious violation being committed here in the City of New York with reference to Franklin K. Lane High School.

Mr. Gopstein stated -- and what I have to state I want it to be clearly understood is not in any sense any personal reflection on the Board of Education or their competency at all -- but he stated that the situation of Lane with reference to the ethnic distribution was not intentional. However, as a matter of law, as was brought out during the course of the trial in the preliminary motions, the fact that the Board of Education doesn't do something when they were aware of what could be done and should be done, that is in fact intentional, even though they may not think it

is so, because just in a period of two or three weeks, after May 16, 1974, the Board was able to come up with a very clear type of presentation as to how the ethnic distribution could be improved and a plan that eventually would improve the education of all students who attended Franklin K. Lane High School was proposed.

It seems that for a period of time the Board was aware of what was happening at Franklin K. Lane High School, the Board was aware of it in 1963, '64, '65,up until the time the lawsuit was brought in '71, and I recall specifically in my first conference with the Corporation Counsel's office and also your Honor, Judge Dooling, in May of 1971, when I stated to the Court the fact that I was aware and the plaintiffs were aware of the tremendous problems which would occur with any redistribution, and the Court has made available to me the hundreds, and if I am not mistaken, possibly thousands of communications that the Court has received as a result of the plan submitted by the Board of Education -- and I might add that this was something which I think the Court was aware of in 1971 as I was aware, that is as to the tremendous problems which would be involved in this situation, and one of the reasons why this case was brought here in the Federal Court and possibly not in the State Court, is the fact that it

was my feeling as a lawyer that in the past ten or fifteen years this country has been able to see what a strong, intelligent, hard-working Federal judiciary can accomplish when it is presented with the facts and when a decision has to be rendered, no matter how unpleasant it may be to some people --

Now, what has happened here, as you can see from the geography and the plan as explained by the Board, and which on the part of the plaintiffs I agree with the geographical distribution, that if this plan is not implemented in September of 1974, it is the feeling of the plaintiffs and of those people who are interested in sending their children to Franklin K. Lane, then really this is one further attempt upon the part of the Board of Education of delaying what they should have done and had to do under the law years ago, and this would give the feeling to many, many people who live within the area of Franklin K. Lane, and I have seen some of the letters or some of the reports in the newspapers, in the local newspapers, that all that was requested and hoped for on the part of the people who lived in the various areas affected by Franklin K. Lane that they just wanted one year of delay and maybe further something else could be done in this situation.

I would say that this particular case and this

redistribution at Lane has far more importance, I think, and I may be wrong, for the City of New York and for all metropolitan areas throughout the country for it will set the stage because we are dealing with a very interesting part of the City of New York, the Cyprus Hills, the Woodhaven, Maspeth, Glendale, Ozone Park, Richmond Hill and Forest Park, an area which has been a fairly stable type of area within the City of New York, and from my own experience, and from where I live, I live in the Bronx, I have seen what happened when the school system suddenly begins to decay, the people who live in the areas where their children go to school make plans to leave the area because they feel their children's education is going to be hurt or their children's safety is affected.

The opportunity here that exists now in September of 1974 is that for the first time the Board has taken a serious look at the problems of integration which can be achieved here in the City of New York and possibly stabilize a situation which would not see an exodus of families from this particular area; it is the feeling of many people that if there is the delay not only of one year or of two years as far as Plan A of the Board is concerned -- I feel, and again this is a personal opinion and people may disagree with me -- that

there will be a very quick and immediate change by the year of 1976 when Plan A will go into effect.

The thing that has to be done is not the question only of reshifting kids around, I know the problem, as I say, and I may say to you that I have been a president of a parents' association so I know many of the problems that exist in the City of New York with reference to the education of children, but not only must the Board implement this plan with reference to the geography of it, but they must immediately implement it with services that would be necessary so that the people of Glendale, Maspeth, Ridgewood, Ozone Park will feel content and have faith in the fact that the Board is not just shifting their kids around with reference to some sort of ethnic distribution, but is seeing to it that black and white and Spanish-speaking children are getting a good education;

(continued on next page)

EK:jm
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MR. TODEL (continuing): The mere shifting around of these kids without at the same time the Board making immediate plans, not of possibly reducing the number of services in the system, but of possibly even a crash program, and I know the problems with the educational budgets here, but this is an opportunity for the Board of Education and for the City of New York to see whether or not in this particular area which I have described and which you know much better than I do, whether or not the educational system can be stabilized and improved so that we can have children who will attend school, both black, Spanish-speaking and white children, and receive a good education and who will have the experiences of working together.

There has been a great deal of misinformation with reference to some of the letters that were sent to Judge Dooling, and I know one thing, and I think the Board takes the same position and the plaintiffs take the same position, no child who is now attending Grover Cleveland, Richmond Hill or John Adams and who is a sophomore in these schools will be taken out of these schools if they happen to live in the area which is affected; these children will be continued in that school. That has been the policy of the Board of Education and that is the policy also of the plaintiffs.

It is not a question of taking these kids out of the school that they are going to.

If there is delay in implementation of one or two years, I think an opportunity will have been missed on the part of the people of the City of New York of bringing a well-integrated and meaningful type of education here in our community. This is an opportunity which I think comes very rarely in the metropolitan area.

There has been some confusion with reference to the last Supreme Court case which came down: that has nothing to do with the Franklin K. Lane situation. I think one of the first questions that Judge Dooling had put to me, even before the trial, I think at the first open hearing we did have, was the question of the tax rate. Now in the last Supreme Court case in Detroit, that involved going into other counties. For example, say New York City were combined with Nassau County or with Westchester County, and that is what that case referred to. But here in the City of New York, in Brooklyn and Queens, we have a one-school system and we have a tax structure which is the same. There is no difference in taxation, maybe a very tiny little per cent, but we have one system here and it is a system which can work if the Board of Education

institutes this plan and implements it immediately.

May I just also state here, and I haven't heard the expert who will testify, if the Court feels it necessary, as to the difficulties involved. The Board of Education has a program committee which will meet three or four weeks before the opening of the term. They have the telephone numbers of the staff of the school who will be available to implement this plan, families can be contacted and the information I had is that, for example, in Franklin K. Lane when there were serious problems a number of years ago they were able to implement changes in programming and that was done possibly in less than a week of four thousand children attending Franklin K. Lane. There are many problems involved and as it was in that last Supreme Court decision that I referred to there are many inconvenienc as there are in many States, but this is a program whic requires all the effort and the Board has the expertise which has been shown by the way they have redrawn the lines which should have been done years ago; they have the expertise but the question is whether or not the Board itself has the faith that a job can be done.

If you who have read the New York Times -- there is an article about the Board of Education and the Boar of Regents, and here again, and this is why I feel it

is so important that implementation has to be done immediately because otherwise people, I feel, will not have faith in the fact that the Board can do the job and will at least try to do the job -- and in the report which the New York Times speaks about, and which has reference to the Brooklyn high schools and to the Board of Regents, the Board takes a position that really there are some other factors involved about employment, about the white exodus from the City of New York, about social conditions, about housing, but nowhere in the article, and I haven't read the report, and I may be unfair to the Board, nowhere in this particular article does it state with reference to the responsibilities of the Board itself in this particular problem. It is not a question merely of conveniences, but it is a question of faith.

I must say that you haven't, most of you, did not appear at the trial, but one of the saddest things in the trial of this case was the almost complete resignation on the part of the leadership of the Board of Education that anything could be done, and this is the saddest part, because I would say if this plan is not implemented then I believe and I would sincerely feel that there will be a sense of a lack of faith on the part of the community involved that the Board really

means serious business.

That is why it is the position of the plaintiffs in this particular matter that the plan be implemented in September of 1974.

I must say in all fairness to some people that I have discussed it with, some of them felt that possibly, and that is why in the notice that went out to all of you there was the plaintiffs reaction to the Board and the alternate reaction, namely that the western end, that yellow part, would go into effect in 1974 and the rest of the plan goes into effect in 1975, but it is my own personal feeling that I feel the whole plan should go into effect in 1974, and I say this for the reason which I think should be stated here, and that is because the yellow part of this particular plan affects primarily the black community within the borough of Brooklyn and there are many people who do feel that why should only the black child or the black parents be affected by any change. It is true that these students will be able to choose many schools which are good schools, but there is no reason why in 1974 the plan should only affect the western end of the zone. That is what some people felt, that it would begin to change the ethnic distribution in the school, but it is my feeling that the plan should be implemented and at the same time that it is implemented,

the Board must apply every educational expertise that it may have and institute a crash program in September of 1974 to see to it and to assure those parents who live in the areas connected to Franklin K. Lane that their children will not be deprived of an education at Franklin K. Lane because I think that essentially that was the feeling of most of the letters which the Judge did send me, the fact that they felt their children may not get a good education.

So it is a question of faith here. If there is an implementation of this plan in 1976 with all of the plans of a magnet school and so on, then I think the Board is kidding itself and is kidding the City of New York as to the whole problem of integration within an educational system.

THE COURT: Now the United Coalition of Woodhaven and associated organizations, their plan will be presented by Mrs. Esther Lustig.

Do you want to use the microphone?

MRS. LUSTIG: Certainly.

THE COURT: I think it takes some of the strain off of the people.

MRS. LUSTIG: I was originally just going to read the plan and let the Court make its own decision, but I think it is necessary now to state exactly how the

United Coalition came to be.

The two speakers who preceeded me each had a point of view and a side, and both of them blamed one another or cast aspersions as to why the problem had developed at Franklin K. Lane.

Well, after all is said and done, the counsel for the Board of Education and its members will go home; Mr. Todel will go home and it will be our children who will have to pay the price.

The New York City educational system has been one where many, many mistakes have been made and there are many problems and it is the children who pay the price.

We heard the discussion of stable communities, and it is a fact, yes, that this part of Queens has rather stable communities. But I think what is very odd and has to be noted is the shift in population in the schools, that it is not quite as stable.

Over the years these four schools have traded with one another, we have had Richmond Hill which now has a forty/sixty balance, a number of years ago it was twenty/eighty; Grover Cleveland High School has forty/sixty and John Adams has a thirty-four/seventy-three or whatever the mathematics are, but a number of years ago they had forty per cent, and so on and so forth.

And so we did play the numbers game, we shift these children back and forth from year to year, and we as parents never know where they are going in the future. If we have three children we can expect that all three might be in different schools.

When this Lane decision was handed down, we thought it was time that the parents of all the children concerned, both those zoned into Lane and those tentatively supposed to be zoned into Lane, sit down and see what is going to come of it. We are not educators and we are not attorneys, we do not have the hard-core facts, but we do know the realities of what takes place in our homes and in our communities, and we do know, as Mr. Todel pointed out, that if there is to be any shifting of population it usually takes place when you mandate and force children to attend a school which they don't wish to attend.

We agreed that the western boundary of Franklin K. Lane be set at Pennsylvania Avenue. This was done for two reasons:

The 600 students who would leave Lane seem to have been so educationally deprived that we believe that each individual school that they would be zoned into might better serve the job of helping to educate them.

Now, it is a most unfortunate statement that children reach high school age, and I think the words, "good opportunities" were used; for most of these pupils it is good for their education and it will be a very, very sad situation if they decline these options, and they are to be assigned to Boys High or Prospect Heights.

Our second thought was to de-escalate the population to two thousand five hundred zoned students at Franklin K. Lane, thus leaving space for the purpose of receiving students for a magnet program.

The reason that we wanted these schools scaled down to two thousand five hundred in the zoned area was multi-faceted:

We believe that the trend is now towards smaller high schools. The Board of Education stated when they scaled North Central in Brooklyn down from four thousand to two thousand five hundred that that was the new movement and this was their new feeling, they felt that it was more manageable and easier to run and would be more humane to the children.

Well, a school such as Lane that has in the past evidenced difficulties, certainly would benefit from a scaling down of population for more reasons than one. We would still leave one thousand empty seats for the magnet program.

Now, this magnet program cannot be one that is merely verbalized, there has to be a commitment, there has to be a real commitment. It is not necessary to expend enormous amounts of funds, but it is absolutely necessary to staff yourselves with competent people to run it.

The Board of Education shall not change this proposed plan for Franklin K. Lane for four years. This was determined because we as parents realize nothing happens in one year of any great magnitude, nor does it happen in two years; most plans need time to show their progress and we believe that if Franklin K. Lane were left alone to just do their own thing for four years, it would be very beneficial.

A task force consisting of Franklin K. Lane's Parents' Association, community representatives and professionals to develop a magnet program and to evaluate the effectiveness of the school's operation with a view toward offering suggestions for improvement.

In this paragraph was the realization that, well, Franklin K. Lane labored under the crisis of being a poorly-integrated school, it also had to deal with educational deprivation, and the reason that a great deal of the Queens communities did not want to send their children to Franklin K. Lane was because of the

kind of education the parents were receiving from the school, and therefore we felt that the communities and the parents should become a viable part of that school and have a stronger voice and a meaningful voice in what happens.

The Court shall appoint a monitor who shall review and evaluate the implementation and operation of this plan and the monitor shall periodically confer with the Parents' Association of Franklin K. Lane and community representatives.

This clause was added because, as was pointed out by my predecessor, the Lane community had to go to the Board of Education several times asking for relief and did not seem to feel that such relief was granted. Therefore, they wish the Court to play a very active role in making sure that these plans are properly implemented.

We wish the Court to recognize the previous unresponsive treatment of the Franklin K. Lane constituency by the Board of Education. We strongly urge that the recommendations of the task force be implemented immediately with sufficient funds to insure success.

We desire to point out that one, two, four, five and six should be implemented in September, 1974, point three to be implemented in 1975. Originally we had put

down that we would not attempt with this submission of this proposal to provide the Court with the statistics concerning the anticipated student body composition, since any such estimated statistics are pure conjecture.

Recently we got together and tried to figure out approximately how many students do live in the Lane zone, which is now zoned into the school.

THE COURT: Mrs. Lustig, do you mean there the children who potentially would attend Lane but who apparently are not now?

MRS. LUSTIG: Yes, yes.

Now taking into account the parochial school population, and we are beginning to have to take them into account, we find that there is a pool of approximately two thousand children yearly who could enter Lane. Now realistically speaking, there will always be a portion of students attending parochial schools because the family is so oriented, but even if you had a thousand students per year from Woodhaven and Cyprus, you would more than readily fill the school with the present population that it has.

Thank you.

THE COURT: Now, in ordering, as I have indicated, the other speakers, we start first with the public officials.

Congressman James Delaney, I think, had in mind being here and is unavailable for obvious reasons, and he has delegated to Mr. Patrick J. Delaney the task of speaking for him here.

Is Mr. Delaney here?

MR. DELANEY: Yes, your Honor.

THE COURT: All right.

Would you want to come up here?

MR. DELANEY: This will be sufficient, your Honor.

THE COURT: All right, sir.

MR. DELANEY: Your Honor, thank you for this opportunity of appearing.

Congressman Delaney's congressional district is the 9th Congressional District which starts in Jackson Heights, takes in part of Astoria, Long Island City, Woodside, Sunnyside, Glendale, Ridgewood, Maspeth, Middle Village, Woodhaven, Richmond Hill and part of Forest Hills. You can see it is a pretty extensive district.

In the district itself there are not too many high-rise apartments; there are a lot of one and two family homes, and that is why the district is so large in terms of geography.

As the Judge mentioned, the Congressman is unable

to be here today. I will try to capsulize his thoughts on this as best I can in a brief statement, because I can see there are many speakers who will follow.

The Congressman is unequivically opposed to forced busing or transportation of students to achieve racial balance. He just doesn't think it will work.

The second point is as far as this plan is concerned, whether it is a fast time-table or a slow time-table, the reaches of the plan go into Maspeth and go into Middle Village and extend to such a degree that it would, if it were done quickly, accelerate the decay of those somewhat Queens stable communities.

The real reason a lot of those people live there is because of the neighborhood school and that is the reason they purchased homes and that is the reason they are living there. Whether they are in the school now and it affects them, that is their children are in school now and it affects them, or whether their children are in grammar school and is about to affect them, that is the prime consideration, and given the plan itself, a fast one or a slow one, I think more than anything else the education of the children of these parents, which is their prime consideration, well, they will move and you will have to come back with another tentative timetable saying, we will project in the year

1978, we will have a racial balance, and we will go to Bayside to get it.

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The Congressman is opposed to this particular plan.

Thank you.

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THE COURT: Is Mr. Battista here?

Mr. Battista has submitted, in outline, a plan at an earlier date, and I don't know whether you meant to speak directly to that, Mr. Battista, or more broadly.

MR. BATTISTA: Thank you very much, Judge, for inviting me here, your Honor.

I am an Assemblyman from the area -- incidentally, I am right -- the school, Franklin K. Lane, is right in the center, practically, of my whole Assembly district.

I am a member of the Educational Committee in Albany on education, and I am also a member of the local school board, plus the fact I am a director of the Institution of Design and Construction, where I also help young people get an education --

VOICE: I can't hear you.

THE COURT: I am afraid you are not being heard in the back, Mr. Battista.

MR. BATTISTA: I will have to use this, Judge.

THE COURT: All right.

MR. BATTISTA: I regret to say to you that having lived in this area for the last twenty-five years, I am very familiar with the Lane problem and I think the Lane problem can be placed at the doorstep of the Board of

Education, because what you see there now should never have been, and I think -- thank God we do have the Courts -- that when something goes wrong we can appeal to the Courts for assistance.

I know what is going on in Lane, I have students coming to me -- I hate to tell you all the problems that go on there, and we have been down to the Board of Education time and time and time again, for years we have appealed to them for help.

I think people have lost faith, and I am sorry to say this, they have lost faith in the Board of Education, absolutely.

To now go on to this plan that has been proposed -- the plan that I originally submitted as a concept was to take the school, Franklin K. Lane, reduce it in size to about three thousand or thirty-five hundred and take about one-third of the school and make it a local comprehensive neighborhood high school for the local people within the community.

Of course, using the Pennsylvania line as a cut-off line.

THE COURT: As I understood your plan, that would not have any additions to it.

MR. BATTISTA: No.

THE COURT: That would be a distinction from the

plan suggested by The Coalition.

MR. BATTISTA: Pennsylvania Avenue, and one-third would be the local existing neighborhood high school, but would be integrated, but the other two-thirds, and this is the important thing, the other two-thirds would be made for a -- at the time a specialization of a high school. Now they have new words, they call it magnet, but specialized.

If the Bronx High School can have a Bronx High School of Science, I can't see why the boroughs of Brooklyn and Queens, such a large area, can't also have a high school of science, and in that way the important part of the plan is that you would bring education back into the institution. You would bring students, regardless of who they are, white, black or pink, back into an institution where people want to go to learn and get an education.

In that way, people in the community now would see that Franklin K. Lane is a usable institution. I have pleaded with the Board to do something in all these years, even with legislation we could never get their co-operation. You've got to make Lane a viable educational institution.

How you do it, I have a plan by making this a specialized high school, but only part of it. Other

people have a plan to have magnet courses in there, but everybody has basically the same idea, and the idea is to make Lane an institution of learning where people can go without fear, where people can go to a bathroom without fear, where people can have lunch in the lunchroom, if need be, and people can go back and forth without fear.

We don't have that at Lane, and until we do, your Honor, until we do, I don't blame the people here, here and here or wherever they are, to send their children there now. This is important.

I can understand why people around here don't want to send their children to Lane, because they have seen what has happened to Lane with all the pleading of people in the community like myself and others, there are many here that I attended the Board of Education hearing rooms year in and year out almost to a point of frustration, so I can understand why these people say, "Show us that Lane is a viable institution. Show us that we are going to have quality education there, then our children will come." Because right now, to be very frank with you, over the period of years we have lost people from Lane. We have lost people in the community, because not everybody is wealthy enough to send their children to a private institution.

Of course, some people are able to change addresses and get away with it, and that was a solution, but many of them left the community because they just couldn't send their children to Franklin K. Lane.

All the arguments to the administrators, they tell us that Lane is a viable institution. Oh, yes, you will always have students, regardless of what the conditions are, they will get an education and they will produce, but I say those students, if they were given a more idealistic set-up, they could even be higher in the category of our society.

We know, people come to my office, Judge, looking for jobs, young people, and when I ask them where did you graduate from, they look at you -- "I didn't. What school did you go to? Lane. Why did you drop out?" And they give me the stories. Time and time again I tell them, "Why don't you go to high school at night. Why don't you get your high school equivilency."

I would like to know, Judge, from the Board of Education, I would like to get these statistics in the last ten years, or in the last five years, how many students have dropped out of Lane and today are educationally crippled. Nobody has advised them, and nobody has helped them, whether they be black, white, pink or yellow, doesn't make any difference, how many of

them?

THE COURT: I do think, Mr. Battista, that during the trial, through Mr. Anker's testimony and the testimony of others, we had a fairly good statistical profile of Lane with the attendance and the -- and by implication, the drop out pattern. But I don't know that the Board has any means of follow-up on the drop out ones, about what their subsequent careers are, but we did have evidence, too, of the efforts that have been and are being made and which, I am sure, the Board would like to be able to maximize, to make the school more attractive to those who are zoned to it, from wherever they are zoned.

As it was zoned, many of the programs were under-funded, as they were, the Board was working with, the programs were designed to head off the drop out problem and in effect to try to convert the truancy problem into a means of intern-type shared education between work and school. So that I think the Board is aware of, and orientated toward, what you are saying, but we did not, as you have brought out, here discuss the possibility of trying to make Lane over into a school that would in effect be in some considerable part -- you suggest two-thirds -- an unzoned school which would, in effect, be selling what we must learn

not to call an ilicit-type Bronx High School of Science education, but education that would attract people from a very much wider range than a school range of that sort.

That I think we did not discuss at the trial.

MR. BATTISTA: I think, Judge, that if you start to make Lane a viable institution you are going to find people from around here are going to try to get their children into this institution, and I don't agree with the Board that if you have a specialized institution, there is nothing wrong with that.

THE COURT: They don't think so either. For example, they have used that at Erasmus High School.

MR. BATTISTA: We have a half-dozen more institutions right now -- incidentally, two years ago they tried to take those institutions away from us to make them all comprehensive, and in Albany we passed legislation just doing the reverse, because we think there is a need for that kind of an institution.

So that really, Judge, I know there are a lot of people here and I want to get off and conclude my remarks, and my remarks are very simple -- incidentally, I may tell you that I have been in Lane many times, and not only by myself, but with legislators from upstate, Constance Cook, where we went up there and we saw half

of the classes empty -- in fact, there was an assault the day that we were there, so we are familiar with Lane and I think this all can be changed if we want to change it. I think the change is not to force people, not to force people to go to an institution that is yet in the process of improving itself. I think that is a mistake.

THE COURT: I think that the thinking --

MR. BATTISTA: And I think that --

THE COURT: -- As I understood at the hearing, is school population makes the schools, and that anything that can be done to improve education within the school is dependent in part on who can be induced to attend the school. So that it is an inter-dependent variable equation of trying to attract and implement and attract at the same time, and that I think is something which, as I understand an earlier explanation of Mr. Gopstein offered of the Board's plan, a reason, sufficient or not, for wishing to have a long run up to the attack so that there can be created a visible set of programs for Lane before, in effect, its doors are open, and the Plan A program visualize in effect running down the school toward vacancy at the same time that publicity is given to the development of new programs that will be worked on with a community base. So that at the moment,

D-day, the community work will have been done in consultation with the Board people, and a readiness to send people have been established.

I think the real problem is that Mr. Todel would feel, and might, I think, the Coalition would feel that, well, those mirages in the past have just moved back as you approach them, and that really is a very large part of the immediate problem that we all see, because I do think everyone shares your view that there is much to be done with the school, and, in other words, that this is a school located, the space is here, the children are all about us and we have schools all about us, there is going to be some addition of brick and mortar in Brooklyn, and I don't think we got into whether there is going to be more brick and mortar in Queens, I am sure there will be, but meanwhile I think the question is in some considerable part what is done to alleviate the condition of those who, for one reason or another reason, have no choice except attendance, for economic, residential and other reasons.

I am sorry, I didn't mean to interrupt, but I know that your ideas are live, they come out of the community --

MR. BATTISTA: Yes. I just want to conclude, your Honor.

I understand, and I mentioned that before, why people don't want to send their children to Lane, and unless we make this a viable institution, whether using Plan A, B or C, unless you do that you are not going to solve the problem of Lane and the people in the community are not going to be happy, and in the surrounding community, and people within the community are not going to be happy.

So I want to thank you very much for inviting me. I hope you give the principles of making Lane a viable institution first before you insist on bringing people in by force to go to Lane. I think the plan that I suggest has some kind of merit in that philosophy.

Thank you very much, Judge.

THE COURT: I think we all ought to be clear that we are not talking about good and evil plans. We are talking about good, better and best, I think, and what we want to do is see if we can, within the limits of feasibility, get the best plan, and feasibility, I am afraid, is in some parts determined by the -- well, a problem familiar to each of us as individuals -- money.

Thank you very much, Mr. Battista.

Is Bea Kaplain here?

MS. KAPLAIN: Yes

THE COURT: Could you come up, Mrs. Kaplain?

MS. KAPLAIN: Yes, your Honor.

THE COURT: Can you use the microphone to advantage, do you think?

MS. KAPLAIN: I don't know whether I will need it. I have a very strong voice. If necessary, I can.

THE COURT: It is a carrying voice. All right.

MS. KAPLAIN: I would like to thank you, Judge Dooling, for permitting us to speak at this hearing, and for wanting to know first hand the feelings and needs of all communities concerned in the Lane rezoning.

My name is Bea Kaplain and I am Vice-President of Presidents Panel School District #24, which is composed of P.T.A. Presidents representing all twenty-four schools in our district. We are members of the United Coalition.

We have examined the proposals submitted to you, Judge Dooling, and strongly feel our proposal, the United Coalition's proposal, is the most feasible.

Franklin K. Lane's student body, presently, is not composed of students from the community. Parents from the Franklin K. Lane community have sent their children to other schools due to their concern for their child's physical safety and lack of sound educational programs. Students would return to Lane if this was corrected. Our proposal will make this possible.

If the school draws its student population from the immediate area surrounding Lane and from Lane to Pennsylvania Avenue, the student body would be better balanced. In addition, a court monitored magnet program will draw students from other areas to the school for these programs, making rezoning unnecessary.

The intention of the Board of Education and the Plaintiff is to zone into Franklin K. Lane High School approximately 570 students from feeders in the present zone of certain Queens schools. Past experience has proven that mandated rezoning is not effective. Parents will use any means to keep their child from attending a school with Franklin K. Lane's reputation. They will falsify addresses, send children to private schools or move from the affected area. Parents who strongly believe in public school education will send their children to private schools though this creates great hardship. We do not wish to leave New York City, nor do we wish our neighbors to do so, because of fear of changing school patterns, detrimental to our children's welfare and well-being.

I am the P.T.A. President of Glendale Junior High School 119. There are approximately 750 students in our school. Our June 11th P.T.A. meeting was attended by 150 parents. The parents informed me that

they will not rely upon verbal assurances and unproven theories that a shifting of students from one area to another will correct the situation as now exists at Franklin K. Lane. They do not want their children to go to Franklin K. Lane.

We have had many community meetings. Mr. Barkan was at a meeting chaired by Presidents Panel on June 14th at Grover Cleveland High School. This meeting was attended by 1500 people and Mr. Barkan was very impressed by the tone of the meeting. People came to hear, not to be heard. After the meeting, through wires, mail-grams and letters, they informed Judge Dooling, the Board of Education and their legislators of their opinion concerning the Board of Education's plan. Those directly affected by the rezoning plan are backed by those indirectly affected. They are backed by united communities, against rezoning.

We urge the Court to adopt the proposal submitted by the United Coalition. The plan is a simple one. We are parents, not educators. We are fully aware of the fact that the Administration and Faculty at Franklin K. Lane want a sound educational school in an environment without fear for their physical well-being, as we parents do. You cannot expect parents to jump at the chance to have their children leave a good educational

school in their own community for one which has yet to be proven.

Thank you.

THE COURT: Thank you, Mrs. Kaplain.

Is Mrs. Bertha Neumann here?

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MRS. NEUMANN: I'd like to thank the Judge also for allowing us to voice our opinions. I represent Public School 68 in Ridgewood-Glendale, it's on the border. We have an enrollment of about approximately seven hundred and sixty children. I am past president and currently vice-president of the P.T.A., the Parents Teachers Association.

In the 1950's, our children went to Richmond Hill, the Ridgewood children went to Grover Cleveland. Richmond Hill and Cleveland both had good repuations and all parents were satisfied.

During the early 60's, the reputation and social balance changed drastically at Grover Cleveland, so the Central Board rezoned our children to Grover Cleveland. Because of the reputation, many of the parents either gave false addresses, used private schools, or in many cases moved out.

Gradually, as Cleveland changed, from administration on down, our parents began to have trust enough to begin sending their children to Cleveland. Then, last

year Richmond Hill wanted our children back because their racial balance was off again. We fought that and refused that.

P.S. 68 is a quote, naturally-integrated school, close quote, with about a thirty-five per cent minority enrollment, but integration does not guarantee a good education. We are one of the best schools, in one of the best school districts in the City. We are this way because of a highly qualified staff and administration who care about educating our children.

Our parents are tired of having their children used as pawns to be sent wherever schools need white faces allegedly to upgrade that school.

Is the Board of Education or the Court assuming that white faces are better than any others? When we mentioned that our school, P.S. 68, is thirty-five per cent minority, we were told, "But they are a better group of minority children."

Don't ask us to send our children to a school with a fifty per cent absentee rate, where the scholastic level is below par, where the teachers and the children are afraid to be there, where the immediate Lane neighborhood refused to send their own children there.

Change the school first: new administration, new

staff. Don't expect our children to do a job the Board of Education should have done long ago.

Why should our children's education be sacrificed for the next few years just to upgrade an inferior school?

We -- I -- will not send our children to Lane until it is considered to be a safe school to send our children to, a school where they will be educated and will not fear going.

We asked the Board of Education at the first hearing to make Lane a magnet school. We were told that it was no longer Board of Education policy to create any more magnet schools, when at that very moment, Clara Barton, where we were sitting, and John Dewey High School were being announced as magnet schools.

Make Lane a magnet school where it would be a privilege to attend, or upgrade education given there. If this is not done, no amount of Board of Education decrees or Federal Court orders will cause us to send our children to Lane.

As a last point, someone else had mentioned one thing, because of middle-class exodus, which is a fact not a fallacy, what we refer to here today as minority is fast becoming majority. The only ones who have to stay in the City are those who cannot yet afford to

move out.

THE COURT: Thank you.

Is Miss Lois Hickey here?

MISS HICKEY: Yes. My name is Lois Hickey. I live in Ridgewood, Queens and I am president of the Parents Association of P.S. 71. P.S. 71 has an enrollment of nine hundred and thirty-eight students with approximately three hundred families belonging to the Parents Association, and in the absence of Fran Ungerman, president of Junior High School 93, I am also representing 93 with a student population of fifteen hundred students, approximately, and a Parents Association membership of approximately eight hundred.

I am also a member of the Presidents Panel of District 24. I would first of all like to thank you for allowing us, the people, to be heard.

The families of P.S. 71 have instructed me to give our total support to the United Coalition proposal, and only that proposal. The United Coalition proposal is the only proposal that was drawn up by all involved communities. I cannot remember when separate communities have worked together so well. There have been no chiefs, just hardworking Indians, trying desperately to help save our city and our children. While the Board of Education can quote you figures and statistics -- we

the people, ARE those statistics and figures.

Because the Board of Education is big, does not mean that they cannot be wrong. We parents had been hopeful that the Board of Education would see the advantages of the United Coalition proposal. The fact that the acceptance of this proposal and only this proposal would keep our families in our communities and our children in city public schools, must be taken into consideration.

We feel the time has come to face truths. We have tried to work together in, as the song says,"peace and harmony". Not one community against another, but together. We have succeeded. We are sincere and caring people. We are trying to work for a better education for ALL children. We cannot have good education in any school -- in any community -- if the people of that community are not supportive of that school. Give the communities around Franklin K. Lane back their school to use and support. This can only be achieved with the United Coalition proposal.

Your Honor, should you see fit to choose the United Coalition proposal from the three you have to consider, I'm sure that Lane would then become NATURALLY integrated. And then when a magnet program is introduced in 1975, I'm sure that all we are doing now will

become, in years to come, a positive model of how communities and schools can work together and find agreeable solutions to problems for the good of all children.

Our children are our tomorrows. Someday perhaps a child who is going thru our schools right now will be sitting as a Federal District Judge. Hopefully that person will never have to make the type of decision your Honor must make today. And as long as communities can work together as has been demonstrated here, in this case, that person will never have to.

Thank you, your Honor.

THE COURT: Thank you, Miss Hickey. We will have a short recess at this time, not more than about ten minutes. I do have another criminal matter that has to be fitted in here, but that won't take but a moment, I trust.

(Recess.)

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THE MARSHAL: Everyone take their seat, please.

THE COURT: At this point I fear we will have to have some departures from the order set out here. I hope you will be patient with them. They arise out of the fact that these three gentlemen all have to get back to other work and would not be able to stay with us until their positions were reached, and of course, on the ladies-first principle -- is Miss Rosalie DeLillo here?

MRS. DeLILLO: Yes.

THE COURT: Could you proceed, please, Mrs. DeLillo.

MRS. DeLILLO: Yes. Thank you, your Honor, for this opportunity to speak and for your graciousness in letting me come to the podium early.

I am Rosalie DeLillo. I am here today representing the Italian American Civil Rights League.

Our group is staunchly behind the plan for a special high school, for Franklin K. Lane High School, to make it so academically attractive that it will become a magnet to any child anywhere in this city to avail himself of an education.

We also want to be on guard against the possibility that the plan to promote justice is not tempered by injustice. We feel it is not just to

deny an option or an opportunity, of a choice to any child, of his or her parents of an education, and that in this mandate to send certain children to Franklin K. Lane without the option would not be just and undoubtedly this is something which must remain open.

It is our desire to uphold the laws of our land whenever and wherever possible, but we will remain adamant in our quest to insure the rights of all people, legally, morally and educationally.

Thank you.

THE COURT: Thank you.

Now, let us see if I can get my order correct.

Mr. Vincent Arcuri.

MR. ARCURI: Thank you, your Honor.

As a parent of parochial school students, past president of a parochial school PTA, and as a member of the parochial school coalition of District 24, I wish to speak in favor of the United Coalition's proposal for the zoning of Franklin K. Lane High School.

First, let me point out that the rezoning plan proposed by the Board of Education have totally ignored the number of parochial school students residing in the existing Franklin K. Lane zone, and have further

3 chosen to ignore the trend of the past few years of parochial school students opting to attend New York City high schools.

In the existing Franklin K. Lane zone, there are at least three, four or five parochial schools with about 2,000 students. Many will be attending costly private high schools or New York City vocational high schools at great distances from their homes only because the present Lane educational process is destitute and, at best, unable to afford any student the opportunity to be educated. They are readily available to attend an upgraded Franklin K. Lane.

We parents of the parochial school students have always stressed our desire for a choice in education, for alternates to a one-system educational process, so that we may be able to find the quality education facility. This is much in evidence in the Ridgewood, Glendale, Middle Village community. Prior to the last rezoning of Grover Cleveland High School in 1968, and by the way our Catholic parents in the district, like others in the Brooklyn Diocese, helped to build a new Catholic high school in our area, namely, Christ the King High School in Middle Village because we felt that the New York City high schools at that time did not offer us the quality education

4 that we desired.

After a short time and after we observed Grover Cleveland High School developing new programs, excellent teaching methods and extra curricular activities, many of us began to compare the two schools. We now had a real choice and many Catholic students chose Grover Cleveland.

There are about eight Catholic grammar schools and at least two Lutheran schools in the existing Grover Cleveland zone. They will be considering sending at least 250 students to Grover Cleveland or Richmond Hill in the fall. None of these students were ever thought of in the Board of Education plan to rezone Franklin K. Lane. This means that in the future instead of decreasing enrollment in Lane, if the Board's rezoning plan is implemented, Lane will face a tremendous over-utilization, and in fact in a couple of years from now will have to go through rezoning again to take the extra students out.

We don't want to be rezoned into an inferior educational facility. We don't want to be denied a choice between good local schools, as we presently have; we wish to be counted in support of the United Coalition's proposals.

I can assure you, Judge, that if Franklin Lane

is upgraded under the United Coalition's plan, many parochial school students presently residing in the existing Lane zone will gladly enroll there, and that the racial and ethnic make-up of Lane's existing zone is such that, following upgrading, true and natural integration of Lane will develop.

I would like to depart and bring up a point on the Board of Education's figures: As I recall, a statement was made that John Adams is presently 74 percent I think white -- yes -- and Richmond Hill 64 percent.

THE COURT: 64?

MR. ARCURI: 64.

And that the number of students affected, that is being removed from the Richmond Hill zone, would be approximately 45.

This does not count the students that would be in St. John's Lutheran High School, Sacred Heart Catholic High School, St. Margaret's Catholic High School, they are all graduate schools and in effect you would be then changing Richmond Hill's percentage in my opinion in the next few years well below 50 percent and it would again be another rezoning problem in that school, and similarly, you would have it in the John Adams area.

6 Thank you.

THE COURT: Thank you.

Now, Robert Farquhar of the Franklin Lane Adult Education Center.

MR. FARQUHAR: I am Robert Farquhar, I am Chairman of the Adult Center at Lane. More importantly, I have a daughter who is entering the sixth grade in public school and I have a son who is entering the third grade in public school. They both live in Woodhaven with me and I hope som[illegible]hey will go to Franklin Lane.

Today we have heard that this is a matter not just of racial integration, that it is more complex, and that is the position that I have taken for some time.

Many speakers have addressed themselves to the quality of education that is going on in Franklin Lane. There is naturally a reaction to pointing a finger, that perhaps we can find a scapegoat.

Now, Morton Salieb and the staff, are they really, are they really the cause of the problem at Franklin Lane?

In my opinion, no, I believe they are the victims of circumstances. They are in an impossible position. The Board of Education has provided them

7 with certain children; the present zoning plan has placed an overwhelming majority of disadvantaged students in Franklin Lane. If Morton Salieb as the principal and you were trying to do a job, what kind of services would you provide for students who are three or more years behind in reading and mathematics and the other academic field?

I believe that those who place the students in Franklin Lane are the real ones who have caused this problem.

Why has this staff been forced to become a staff specializing in remediation? Who did this to Franklin Lane? At the present time the educational services for gifted or average kids would be excessively expensive.

We on the consolidated council have been over this many times.

Why haven't you provided those enriched courses that would attract kids that are at the national average or above?

The answer came back we have so few it will be so expensive we can't do it.

Now, whose fault is that? Is it really Morton Salieb's fault? Is it really the staff's fault? I think not. I think it is the gentlemen sitting over

there (indicating). I think it is the Board of Education who have given them so few gifted and average children that they have catered to the market that is there.

Perhaps we could turn our attention to the parents of Woodhaven, like myself. Should I send Kathleen Farquhar, who does very well in school, to Franklin Lane? Will the services be appropriate for her or will they be minimal? What should I do in three years.

I think today we are going to have to decide or very soon decide.

Are we going to keep Lane as an institution for remediation or are we going to make it into a full service high school for all the children in whatever zone is chosen?

The Board policy, it seems to me, has been saying that the children in the present zone are ineligible and that they are unworthy of the educational opportunities given in other schools.

Can we really say that Franklin Lane provides the same services that Forest Hills provides? The children in the Lane zone are, shall we call it, competitively disadvantaged with their peers. How will they compete later in life with children who

have all the wonderful options in many of the other academic high schools?

The Board policy, it seems to me, is a deliberate one. Perhaps this is too strong to say, but it does, it is my opinion, it seems to be a policy of impoverishment for the children in the present one.

Mr. Gopstein at the beginning addressed himself, it seemed to me that he was saying that Lane is really a matter of de facto racial segregation. I don't believe it is. I would say it is a deliberate police of the Board of Education over these years to zone in many black youngsters beyond the tipping point.

Now we address ourselves to the new plan for Lane. Lane is trying, the Board is trying, to segregate Lane even further in 1974-1975. Most of the children from I.S. 55 and 271, who are black children, did not go to Lane last year. It is also my understanding that the children from 296, who are almost all black, were not in Lane last year. Yet the Board of Education now presents a plan that will actually increase the number of black children and the percentage of black children entering in 1974, September.

Is this the way you rectify de jure segregation, by making it worse?

Further, the Board's two options, at least the favored one, would do nothing in the Lane classrooms until 1976. 1974-75 is to be a year of planning and public relations. Nothing is to be done in the classrooms under the favored Plan A, nothing would be done in 1975-76.

As Chairman of the Adult Center I believe the best answer would be the plaintiff's reaction to the Board's proposal. It is very similar to the consolidation plan, but it is precise, and I think eventually the better of the two plans.

I think, Judge, that is all that I have. Thank you.

THE COURT: All right. If you would stay for just a moment, as I understand it --

MR. FARQUHAR: Yes?

THE COURT: You thought the children from Intermediate School 271 and 55 were not attending?

MR. FARQUHAR: Oh, yes, Judge.

THE COURT: Are you unaware of that, sir?

In 1973-74, I have the figures, I don't have them on the stand here, but most of those children did not enter, did not go to Franklin Lane, and as I

understand it also that the children of 296, none of them were in Franklin Lane in this past year, and now the proposal of the Board of Education is to return those children to Franklin Lane to further, I would estimate, to increase the five percent black entering class in September, six weeks from now.

This is the full implication of the Board's plan. Mr. Barkin was told of this on July 9th when he first presented it to a group of parents, but the Board of Education presented it in a modified form any way at that time, and it was ridiculed, there was not a single parent or community person or elected official -- and Mr. Flatt was there -- there was not a single person in the room other than Mr. Barkin and the gentleman from the high school division of Queens who supported this plan.

THE COURT: All right, thank you.

(Continued on next page.)

Now, I believe Mr. Ciaccio is next.

I hope I have pronounced your name, sir, correctly or almost --

MR. CIACCIO: Very good, Judge, very good. Others pronounce it worse.

Thank you, Judge, for inviting me here today. I am going to speak as a civil leader, Judge, as a community leader, and I will leave it up to the coalition panel, and although certainly I don't belong with their judgment because I feel they know more about the schools than I do, yet I am concerned about a community, Judge, I am a civic leader for many years and I feel that we have a stable community, we have stable schools.

Now, as the attorney that has spoken, he mentioned there were five or six different communities, and that these communities are stable communities, and I want this attorney to know that we intend to keep these communities stable, and I as a civic leader and we civic leaders in our communities intend to keep it that way.

We feel that we will not and must not disrupt our children from our community because we also disrupt our family environment.

Judge, we are going into these educational

theories, what plans we should get, what plans we should accept. I remember not too long ago we had a bright educator in St. Louis and they called it the St. Louis Plan. That didn't last long. Then we had another fellow in Princeton, they called it the Princeton Plan, I believe it was in New Jersey, and that didn't go long.

Then in our state, we had in our state an educational commissioner, I think his name was Donovan, and he came out with a plan.

Now, all these plans have brought problems, have brought chaos in our schools. We are moving the kids from one area into another area.

People feel that this school is better than that school, that that school is better than the other school.

Judge, I want you to know one thing: I have attended many meetings and I am trying to keep the people in our community, and they said, "Joe, if this goes on, if this continues on, we are leaving."

"Don't leave, this will change."

Now, we have got to have change in people's minds, and that comes about by sanity, bring education back to sanity.

The schools today were built for the people in

the community, the people live in the communities, they have bought homes in the communities, and let me say one thing, Judge, when the community goes the schools go, the houses of worship go, the business places go.

We spent pretty near a billion dollars in Jamaica to rehabilitate the community after it had been torn down. Here we are taking good communities -- and when I say good communities I mean because the people are concerned about their community -- why have we got good communities, well, the people are concerned. When people are concerned about their community the community is a good community.

Please don't break these few communities that are left because there will be no more taxpayers left in this city to pay any city official, state official, or any educational system.

If you are going to break this up, the people in the communities won't accept it, Judge, they are not going to stay.

I have two grandchildren who are going to go to high school this year. You can bet your bottom dollar I will not send them to Franklin Lane.

THE COURT: Is Mr. John Flack here?

MR. FLACK: Yes, your Honor.

Good morning, your Honor. May name is John Flack. I am president of the Libery Park Homeowner's Association of Glendale.

First of all, I want to thank the Court and you, Judge Dooling, for giving all of us the opportunity to appear today and voice our views.

Your concern about the rezoning of Franklin Lane High School is understandable as is the concern demonstrated by myself and the other school and civic organization representatives that are appearing today.

Not only am I a civic leader in Glendale, in the Glendale community at Liberty Park, but I happen to be a part of that great community and I happen to be an assemblyman representing the 33rd Assembly District in Queens County which takes in most of the portions we are talking about in terms of the area --

THE COURT: You are referring to the pink area?

MR.FLACK: The Ridgewood-Glendale-Middle Village and Maspeth.

But I am here primarily as a civic leader because I have my roots in the community and that is how I really became active in community affairs; that was through our civic organization.

I can tell you that in Queens County I think we have some of the most outstanding civic

organizations as we do school groups.

But first let me give you a brief description of my community and its people.

It is made up of approximately five hundred one-family homes, and my organization and the community was founded in 1962 and we have a lovely community, tree-lined streets, a clean community, with the cooperation of the residents and the Sanitation Department of the City of New York, but mostly I would say through the cooperation of the residents of our area. The residents are honest and hard-working people. They have really worked hard all their lives, they have a great deal of pride in their community, they have a great deal of pride in their children.

I think if you had the opportunity perhaps to find time to tour some of the areas where we are talking about, perhaps it would give you a greater insight into why so many people are here today testifying.

I think one of the levels that you measure a community perhaps is based on official New York City police records, and most of the areas we are talking about today, Ridgewood, Glendale, Middle Village, Maspeth, are included in the 104th Precinct, and I think we are all proud, all of us, all that live in

those communities, we are proud to say that this precinct is among the five lowest crime areas in the City of New York.

So I think this is a test as to the type of people we are discussing.

Now, the Liberty Park Homeowner's Association endorses without any reservation the plan that has been submitted and advanced by the coalition, spearheaded by the present panel in District 24, and all of the other school groups and civic groups in Brooklyn and Queens, and we feel that this plan provides the best approach to a problem that is plaguing the Board of Education and has been for several years. It is a plan that without disrupting a sense of community and continuity would provide I think for the best interest of education in Franklin Lane High School.

I think it is important to emphasize here today that people that come before you are very community minded. I think you must come to that conclusion when you find the vast array and representation of various groups that are so very concerned about the outcome of this case.

I have said before that we have in these areas some of the most outstanding civic and school

organizations.

In brief, your Honor, we all enjoy a sense of place, and I think this is so important in the deliberations in this case. The people do enjoy a sense of place and it creates harmony and good will in the community. It is not disruptive and it is not destructive.

Now, the proposal offered by the Board of Education which recommends the rezoning of Franklin K. Lane High School to cause the attendance of youngsters from my community, Glendale, Liberty Park, that will cause a shattering, a literal shattering of the present community school relationship that we have developed over the years.

I think it is important to note at this point that the development of a school community relationship or a community school relationship has basic roots presently not only historically, as a tradition in this state and in this city, but now has the presence of law because we passed and it was passed and signed into law in this state the school decentralization program for the City of New York. We did not do it for Rochester, we didn't do it for Syracuse, we didn't do it for Buffalo, but we did it for New York City.

I think you can only come to the conclusion that it was done for New York City to help New York City to have people get a sense of involvement, to have people that will be locally orientated to become interested in school activities, not to have everything passed by edict, by one very small group designated the Board of Education.

So we do have some precedence for the communities to have a greater voice in more and more of the decisions that will affect their lives and the lives of their children.

Quite frankly, if the Board of Education plan goes through, and from the sense of the pulse of the community that I have in Liberty Park and in my assembly district, parents will not take the opportunity nor will they have the incentive or inclination to join and participate actively in the Parents Association of Franklin K. Lane High School. It is not a part of their community, it is not the natural or basic feeder lines that we have had for these areas, and I feel that as a result, and I think this is a serious consideration, that the youngsters and the parents and the school would suffer.

There are many other examples, I'm sure, which have been brought to your attention whether it be by

the participants in this case or representatives speaking today or in fact through your own research staff of what has happened in other cities in this nation that are attempting to cope with this very problem, and as a result of what we have seen in the past, there is no reason not to believe that when I, as Mr. Ciaccio showed you, the previous speaker, has indicated, the adoption of the Board of Education plan, well, there is no reason not to believe that people will just not send their children to Franklin Lane, they will find some device, some mechanism, some way to avoid that confrontation with that institution of learning.

And why is this? Because I think all of us, and it is the words of our own Commissioner of Education in this state, Mr. Nyquist, and, your Honor, quite frankly I don't often agree with Mr. Nyquist on too many occasions in pronouncements, but certainly when he says that we must judge our schools on how they perform and not by what they promise, and that is the fear today, Franklin Lane has created such an image in the minds of people that it has struck fear into the hearts of people.

Now I don't mean to say that the present administration of Franklin Lane High School is

totally responsible for this. I feel that some previous speakers have also stated that the situation at Franklin Lane High School is an indictment of the Board of Education in this city, and it seems strange to me and to my members of my civic association, namely the many people that speak with me on a daily basis, that an organization duly established as the Board of Education has caused the problem and that their plan as it is being advanced should now be accepted as the solution to that very problem.

(Continued on next page.)

EK:jm
T4amR4

THE COURT: I think in order to avoid repetition on this topic, you may have observed that Mr. Todel made no such attack on the Board, nor is there evidence and little foundation for that or for such an attack on the Board's previous conduct.

The changes that have taken place in the population of Franklin K. Lane are due to demographic changes and not to changes in zoning brought about by the Board nor anything which the Board has affirmatively contributed to.

Now, that does not mean that I did not feel required to hold hearings because of the whole history which has developed and that the Board is not under a duty at this time to rezone because in my considered judgment there is a condition of de jure segregation which has arisen, but it is quite wrong, I think, to treat the Board as being the villan: it will not contribute anything to the discussion by so doing.

At the trial evidence was introduced which showed that there was little doubt that the Board was doing its level best to deal with a dynamic picture in which the City was changing about them. The shape of their problem was different in each school year and if you will look at the overall statistics for the entire City and the demographic trends with which the School Board

has had to deal, I think you will see what I mean.

Now that doesn't mean that anyone is free to stand where he is, the Board least of all, the Board of Education, but we are living in a changing world and there are no bastions of changelessness in a changing world.

MR. FLACK: Your Honor, if you please, when I referred to an indictment of the Board of Education, I was not particularly referring to the isolated case of Franklin Lane High School. As I see it, the situation at that High School is only the result of many other factors that were in fact over the years under the control of the Board of Education --

THE COURT: I think the principal factor in the change has been the demographic changes, not any alteration in the school program, this was a voluntary choice of the Board for alteration in the feeder patterns, that was the voluntary choice of the Board --

MR. FLACK: Well, your Honor,I begin to lose the distinction between whether we are talking about education or whether we are talking about numbers of people and different problems of these people, but what I'm really talking about would be the problem that at Franklin K. Lane High School -- well, I would assume if it was sustaining and producing quality education that

was satisfactory to the children and to the parents, there would not be this problem -- I may be wrong that--

THE COURT: Well, I don't want to repeat all that I have said in the memorandum and order of April, 1972 and May, 1974, I can only refer you to them, Mr. Flack.

MR. FLACK: Thank you, your Honor.

If I may continue, it is obvious, then, to me, that in order for any rezoning plan to succeed, and when I said succeed I mean in terms of community participation, educational participation, student participation, to achieve the end product of quality education, then I feel that this plan must in itself have the co-operation of the community and its residents.

I say that the plan that we are endorsing has those very qualities as it was conceived by the very respected and responsible representatives of the communities, and it will provide the impetus necessary to assure quality education at Lane High School and also at Grover Cleveland High School and Richmond Hill High School and John Adams High School, because while we talk only of a particular school today, any decision that will be made in the future will not only affect that high school, not only affect those children that would be ordered or mandated or required to attend that high school in the future as a result of any conclusion

as to the implementation of the rezoning plan, and that is the nature of the beast, so to speak, and that cannot be done without obviously affecting all of the other high schools in the surrounding area, as has been the experience in the past in other areas in this City.

(continued on next page)

M:jm
5am

MR. HINTZ: Your Honor, Ladies and gentlemen:

My name is Julius Hintz. I am the president of the "We Care" Civic Association, Inc., which, as of December 31, 1973, was able to boast of a membership of just under five hundred. These five hundred members were paid up in dues to that date. I am also the Conservative and Republican candidate for the office of City Councilman in the 22nd Councilmanic District, a portion of which is involved in the proposed rezoning lines of both the Plaintiff and the Board of Education.

Before proceeding further with the reading of my statement, please allow me to take one moment to thank your Honor for holding this hearing and allowing the people involved to be heard without demanding of them that they be represented by counsel. We are sincerely grateful and deem it a privilege to be so recognized by one who we hold in such high esteem.

I believe I am correct when I say that today we are here for but one purpose and that is hopefully to aid the Court, with its permission, to reach a fair and equitable decision for all concerned in the integration by some appropriate means of the Franklin K. Lane High School.

Very briefly let us peek at this institution as it stands now. I believe there is no one here today who

will contest the fact that this structure, and I use this term rather than call it a place of learning, is without question one of the greatest failures of the present-day New York City education system. The curriculum is far inferior to that of its so-called sister schools. Its student body is composed of youngsters, who having been found wanting or failing to measure up in today's society, were dumped into Franklin K. Lane. Grouping together the type of individual who has no goal, no ambition and no initiative and is given no incentive to better himself will most inevitably lead these groups of children into mischief, vandalism or worse into criminal acts. In discussions with teachers in this school or with parents who have children in this school, one quickly learns of the violence that occurs daily. Extortion, muggings and beatings are commonplace. With such serious crimes so prevalent one almost finds acceptable the foulest of language and obscenties espoused by the so-called students in expressing themselves. This then describes briefly the conditions which prevail in this school of learning and it must be obvious to all who have listened that concerned and responsible parents will use every means to prevent their children from being sent to this institution.

The "We Care" Civic Association and I personally have studied the three proposals presented to the Court and have concluded that anyone of the three would eventually integrate the Franklin K. Lane High School. With this in mind, we have sought to realize which would be the most successful by being the least disruptive.

We have further concluded that the Plaintiff's plan, hereafter to be referred to as Plan 1, and that of the Board of Education, hereafter to be referred to as Plan 2, would be exceedingly damaging to the effective and efficient education system of John Adams, Richmond Hill and Grover Cleveland high schools, thus creating new problems. May I add that this most successful system evolved because of the foresight and sacrifice of teachers, parents and taxpayers in the localities of these schools.

We have further concluded that Plan 1 and Plan 2 are looked at which disdain, not only by the residents of Queens, but by the residents in the immediate and surrounding areas of Franklin K. Lane, such as Cypress Hills and Woodhaven. The residents and parents of Cypress Hills and Woodhaven do not want children from Queens redistricted into Franklin K. Lane, but rather want it to become a quality integrated school with their local children comprising the Caucasian segment

of the school roll.

We have further concluded that Plan 1 and Plan 2 will meet not only with a lack of co-operation, but with stringent resistance by the Queens' parents involved in these proposals, thereby making it almost impossible to implement successfully Plan 1 or 2. To wit: in a poll taken by "We Care", three of four involved parents stated they would use one of several means, from the extreme of moving their residence to falsifying their home address to prevent their child from being sent to Franklin K. Lane. Using the ratio of three to four parents refusing to allow their children to be sent to Lane and considering the figure of the Board of Education to send five hundred seventy children from Queens to Lane, it becomes immediately apparent that the Board of Education would have to disrupt the serenity of 2,280 households to reach their goal of redistricting five hundred seventy Queens' students.

We have further concluded that Plan 1 and Plan 2 would drive additional white children out of the public school system, thereby, further imbalancing the black to white ratio of the public school rolls which now stands at a dangerous and unprecedented level of sixty-five per cent black and Puerto Rican and thirty-five per cent other.

In conclusion, the "We Care" Civic Association and I personally look to the United Coalition plan as being the most acceptable to integrate Franklin K. Lane since it has the support of all of the communities involved and thus will not create the turmoil and heartache that has been described in the preceeding paragraphs. With this in mind, we request that the Court give serious and complete consideration to the United Coalition proposal with the assurance to the Court that the residents, parents and children involved will cooperate fully to successfully implement this proposal thereby giving quality integrated education to the students of Franklin K. Lane in an atmosphere of tranquility and harmony.

MRS. KOELLING: I am Eleanor Koelling, 1973-74 president of the Parent's Association of Public School 88, Queens. A member of President's Panel of District 24. Our school is in the Ridgewood section of Queens. We have an enrollment of 795 students. To the Board of Education these students may look like white threads to be bartered off in making up a black and white tapestry. To us they are our children. Our hope for the future. Our responsibility to nuture, love, guide and educate. We want them at home where we can direct them and watch them grow. We want their lives balanced; not necessarily

their classrooms. We want our children to be able to enjoy the extracurricular activities offered in their high school. If they have to travel out of their neighborhood this is denied them to a certain extent.

The people of Ridgewood won't give in to statistics. Many of them already have decided what their plans will be if the new zoning is mandated. Mother can get a job and send the children to Christ the King High School or Martin Luther High School. Our Grandmother lives in what will be Grover Cleveland's new zone, so we'll use her address. Then there are those who say Ridgewood isn't what it once was, so we'll move on. Maybe Dad will have to drive for an extra hour or so each day, but we'll know what kind of education our children are getting and that they are close to home.

I contend that changing numbers and zoning lines isn't going to change Franklin K. Lane High School. Changing the program to draw the students that live in the existing Lane zone is the answer. Changing zoning lines doesn't mean that these children will attend. The more families we push out of our smaller communities, the more difficult it will be to integrate our schools naturally. We will run out of "others". To us parents the color pattern makes absolutely no difference. They

are children in our minds. Not black children or white children; just children. What does matter to us, white parents and black parents alike, is the standard of education our children receive. Plus the fact that our children can go to a neighborhood school. Where we can still be involved and know what our children are doing. Involved as we are in their elementary education and junior high education. In all fairness to all the communities involved, we firmly support the United Coalition's proposal.

In closing I would like to thank your Honor for the opportunity to express the views of the Parent's Association of P.S. 88.

Thank you.

MRS. WINTER: I am Rose Winter, president of the Parents' Association of P.S. I.S. 91, Glendale, Queens. We have a register of 1,034 children in our school. I am also a member of the Presidents' Panel of District 24.

Your Honor, I come here today to express the strong feelings of the parents in my school.

It is not necessary to rezone Ridgewood, Glendale, Middle Village and other areas in order to accomplish racial balance at Franklin K. Lane High School. History has proven conclusively that by simply removing a portion

of the Brooklyn enclave and strengthening the school's education standards, a natural flow of children from the Franklin K. Lane neighborhood, who have been attending non-public schools, will return to Franklin K. Lane in due time, to accomplish the desired racial balance. This is a natural and the most effective consequence of this procedure.

What is the history to which we refer? It is the experience of what occurred at Grover Cleveland High School. This school was developing many problems, with the result that neighborhood children were not attending the school. In 1968, a Brooklyn enclave was removed from Grover Cleveland High School and new courses of study were introduced. The Ridgewood children returned to their neighborhood school rather than enroll in non-public schools. The dual purpose of strengthening the educational standards of the school and improving racial balance resulted. Unfortunately, however, the Board of Education, in the belief that they must replace the Brooklyn enclave with "others", rezoned the school. This move significantly increased the register of the school, beyond the estimated figures. Obviously, the rezoning was not necessary.

Why not profit from this lesson of history? No rezoning should be proposed at this time, so as to allow

natural consequences to develop. Again we would like to emphasize that the goals that would be accomplished by this suggestion are precisely those that are desired -- racial balance and improved educational standards.

We, therefore, support the proposal submitted by the United Coalition.

MRS. TUZZO: I am Lorraine Tuzzo, Recording Secretary of the United Coalition of Presidents' Panel, District 24, Queens, and former P.T.A. president from 1972-1974 from P.S. 128, Middle Village, Queens.

Before I begin, I want to thank Judge Dooling for allowing me this opportunity to present my school's and P.S. 87's, Middle Village, Queens, opinions in reference to the re-zoning of Franklin K. Lane High School.

P.S. 128, with an enrollment of three hundred twenty students, is a sister school to P.S. 87 with four hundred sixty-three students. We are Kindergarten to Sixth Grade schools that absorb our open-enrollment children as our own community children, and feel that if these children come to our schools from inferior schools to obtain a superior education, certainly our parent groups want to be on record in opposition to the re-zoning of Franklin K. Lane High School where the

education is inferior. Our children's education in New York City is constantly being short-changed with budget cuts, cut-backs in teachers, and specialized education, that we feel this zoning change will be another drawback for our children to get an education, let alone a quality education.

Transportation will be a hardship for our children as well, since Middle Village is in a remote part of Queens and surrounded mostly by cemeteries, and few main arteries of travel. In certain cases, the children would have to take three buses or two buses and one train to get to Lane. Their school day with public transportation traveling to Lane, the full school day of work, excluding after-school extracurricular activities, the travel home, would take them about thirteen and one half to fourteen hours. Our children have been accustomed to using their neighborhood schools after school and in the evenings for many different activities, and this too would be a sacrifice they would have to make having to go to Lane.

In conclusion, I would just like to say, both P.S. 128 and P.S. 87 would like to be on record in support of the proposal submitted by the United Coalition of Presidents' Panel, District 24.

Thank you.

THE COURT: Is Mr. Tynan here?

MR. TYNAN: Yes, your Honor.

THE COURT: Mr. Tynan is from the Midville Civic Association.

MR. TYNAN: If the Court please, the Midville Civic Association has previously submitted a statement to the Court on July 24, 1974 by our president's letter of that date. I will refer to that mostly in my remarks, but for the purposes of the reporter, the Court has a copy already.

The letter describes Midville's concerns here primarily as an association of homeowners and residents of the community --

THE COURT: I am afraid they can't hear you. Would you want to pick up the microphone and work with that, Mr. Tynan. Thank you.

MR. TYNAN: The Midville Civic Association's concerns with this case today are as homeowners and residents of the community, as well as parents of children attending public schools, parochial schools and children feeding into the high school level.

We have several objections, and one of the things that was said in the beginning by counsel for the Corporation Counsel's office is that we are now faced with only one way to go -- he was referring

2 geographically from Brooklyn to Queens -- we feel that is not so. We feel that we are offering an alternative to the Court, a viable aternative that may produce the results desired by all parties, including the plaintiffs.

I also disagree with something the Court said earlier, respectfully, but nevertheless disagree, and that is that we are dealing with all good plans, good, better or best. I believe that we have basically, or in essence, two plans here, one that is poor and the other that is better. Only time will tell whether or not it's best.

Part of our objections to the plan offered by both plaintiff and the Board is because of physical boundaries in our area. The Midville Civic Association is located in the Middle Village area and it draws from people in Maspeth and Ridgewood, and we have a physical boundary even between Middle Village and Glendale, for example. We have the Long Island Railroad track that runs between the two areas. But on the Glendale side, starting at Woodhaven Boulevard, we have Forest Park, and running from Forest Park contiguously into Brooklyn there are a series of cemeteries, just traffic patterns in the area; there is a lot of difficulty reaching, say, Middle Village

3 into Woodhaven.

I have a sister that lives in Woodhaven near the park. I used to go there every Sunday morning while my mother was still alive, and it was quite, you know, quite time consuming every Sunday morning just making the grip back and forth. I am not inferring that it was 15 hours, but it took approximately a half hour in each direction and it was not the route the buses would operate on.

Children from our area, especially like I live on 69th Street just off of Metropolitan Avenue, my child, if she has to go to Franklin K. Lane, will have to take a bus on Metropolitan Avenue, go to Woodhaven Boulevard, there she will have to change from the city bus to, I believe it is a green bus line, a private bus, and then she will take that to Jamaica Avenue and then again change to a city bus and come back to Lane.

Well, maybe the answer to that is, well, we will eliminate all that multiple busing and we will have the Board of Education put a bus in, or we will get the city to put a bus in. But even there we are talking about traveling at a time where there is, you know, the normal traffic for people heading to work plus the commercial traffic early in the morning.

4 We will eliminate maybe the stop time at the time the child is changing buses, but we are not going to eliminate the travel time. The bus for purposes of taking a child over there, regardless of how it is furnished, will still have to travel that path. There is another possible path, but again that also involves three buses, and again it involves the same kind of time. We figure roughly that the travel time to and from school would approximate three and a half hours; that is to and from.

THE COURT: Daily?

MR. TYNAN: Yes. In relation to a roughly five-hour school day, we think it is way out of proportion. We don't have, at least based on my experience, I am born in the City of New York, I lived in every borough except the Borough of Staten Island, I liked some, and I moved out of the Bronx before it was popular to move, when I was a lot younger. I have lived in Brooklyn and I have lived in Queens.

I have deliberately moved into the community that I am in now. Although I am not a wealthy man, I have the resources and could move to Nassau County. Everybody is moving to Nassau County, Westchester or Rockland County. I don't want to. I like New York

5 City.

A lot of things that have happened in the city, such as the nuisance taxes that we are getting now and everything else that makes things burdensome has not driven me out. Even this I don't think will drive me out, but I will be forced to look at other alternatives.

In fact, I know I wouldn't personally go to the alternative of falsification of my address in order to cause my daughter not to go to Franklin K. Lane in its present climate, but if I had to I will take a loan, my child will go to another school, I don't know what at the moment, but she will not go to Franklin K. Lane.

I am deliberately saying this so it will emphasize what we think the main problem is. The Court I assume would like to reach a decision which would achieve its goal, the goal of better education in the school and the racial balance.

THE COURT: I think also, without depriving people of free public education.

MR. TYNAN: Fine. I doubt very much if this Court, if it entertains a case involving husband and wife who were not getting alone and were seeking a divorce, and the plaintiff lost the case, that the

6 Court would say, you will live together and we will send a Marshal down to force you to live together.

In other words, what I am saying is I don't think the Court would want to mandate something that it actually could not enforce as a practical expedient and never achieve its goal.

I believe the plan as recommended by the Board of Education and by the plaintiffs will not achieve the goals desired. I do believe, though, that a plan that will better the school in the minds of the people in the community -- in fact, I think that is one of the main problems here, whether or not Franklin K. Lane is or is not a safe place for your child to go almost is immaterial. The people in the community feel that it is not. I don't know if that is justified or not. I happen to think it is, but even if it is not, the climate has to be changed and if under the present climate people from my community are forced to send their children over there, take them away from a school that is relatively disciplined and relatively excellent, a school that they are in walking distance of, and send them over to Franklin K. Lane, they will not go. I don't know what expedients they will, each individual person, will follow, but I know we had a meeting of our Board of

Directors recently and we polled a number of our members to find out what the attitude was, and the attitude of the people who have children to go into high school either this year or in the next several years, they will not send their children there.

My daughter is 12 years of age and she will be 13 in September. She will be ready to go to high school not this year, but the following year, and under the present climate I would not want her to go to Franklin K. Lane.

I am concerned with her bringing up and with all due deference to the Court, I think in that regard my judgment is probably better than the Court's, and again, the alternatives that I will be looking to will be lawful alternatives, so I am not going to be doing something that is unlawful, and I don't think the Court has the power to force me then to send my child to Franklin K. Lane; I don't think that is the Court's purpose, in any event.

We think, though, that the educational climate at Franklin K. Lane needs upgrading -- I don't mean the physical plant, but the whole climate in the school. I have a nephew in the school and I sometimes feel for him because I am fearful that he will not finish school in that kind of plant, and I know statistically

it is going to affect the rest of his life if he falls in the way of statistics I read in the paper as to income, lifestyle, and patterns are concerned.

I have a sister who lives within about ten or 15 blocks from Franklin K. Lane School. She has 11 children. Seven of them have either been to through the high school process or are presently in it. Not a single one of them attend Franklin K. Lane School. The other nephew is a child of my brother. They don't attend the school because my sister feels that it is -- the climate over there is not a good place for her kids. They are not all little angels and I am not attempting to tell the Court that, but she feels that the alternatives available to her, and they are very difficult with 11 children to utilize other alternatives, she has had to send them to parochial schools.

Nevertheless, she and her husband have sacrificed to do it, he has taken two jobs and she works another job. So that is the kind of alternative that people in our community, Middle Village and members of the Midville Civic Association, will be undergoing.

One of the things that I am concerned with, I do like the City of New York, I want to live here, I do like Queens County and I like my community. If,

though, this type of thing happens, I am fearful that many people from my community will remove themselves. It will affect our stability, and on top of it, we will not be able to attract other people in. I can visualize in the not too distant future, if the community becomes not a happy place to live, then we are going to have a situation something like in the City of Washington and I don't know what will be done at that point in view of the recent Detroit case, because everybody will be running to the suburbs; I don't know if we can bus people in and across county lines any more.

But, in any event, our people in our community are concerned with our stability, we are concerned with the education of our children. We do have a school in the area, Grover Cleveland, that the children walk to. We feel it is a safe place for them to go. It is reasonably disciplined and they give reasonable educational results which we feel are relatively excellent and we want to continue our children going there. That's all I have, your Honor.

THE COURT: Thank you, Mr. Tynan.

I think perhaps we better have lunch. Could you be back at 2 o'clock or at least having the order of speaking in mind, at least have the people who are

on the top of the list sacrifice their lunches and be back here at 2 o'clock.

Thank you.

(Luncheon recess taken.)

mBShb

AFTERNOON SESSION

THE COURT: Sorry for the delay. Is Miss Kathryn Buscemi here?

Mrs. Buscemi represents the property owners and resident's association of Middle Village.

MRS. BUSCEMI: Right. I want to thank you for hearing us out today.

My name is Kathryn Buscemi. I am representing the Property Owners, Resident's Association of Middle Village, Inc., with a membership of over one thousand, who are unanimously opposed to the proposals to rezone Franklin K. Lane High School.

We have already presented petitions to your office containing 3,906 signatures in opposition to the rezoning.

Some of the reasons for our feelings on this matter are as follows:

One. Quality of education offered at Franklin K. Lane High School. We feel that nothing has been implemented in recent years to upgrade the educational programs offered at this school. Therefore, with the latest educational cutbacks, we do not feel that our childrens' physical presence in the school can be anything but detrimental to them.

Two. The transportation and travel time.

The children from Middle Village will have to take three buses or one bus and two trains each way, if sent to this school. This could entail up to three hours travel time per day, especially in inclement weather. Time better used in educational pursuits.

Our children, because of the time element, will not be able to take part in after school activities or organizations nor will they be able to hold after school jobs.

In the winter months, our children will have to leave their homes before daybreak to travel to their school and probably arrive home after dark. In bad weather, ice and snow, the travel time could be longer. We also point out the physical risks in waiting on heavily trafficked corners and in unprotected areas.

Another fact to be taken into consideration is that on the opening of Rentar Plaza next month --

Judge, are you aware of Rentar Plaza? Rentar Plaza is a new vertical industrial park and mall that is opening on Metropolitan Avenue next month. When this opens our transportation facilities will be utilized beyond capacity.

According to an article published in the Daily News on June 30th, the mall will encompass 3,500 new

employees alone. You add shoppers to this figure and you might see that our 90-year old train station or bus lines cannot absorb any more.

The increased truck and car traffic on Metropolitan Avenue will also impede the passage of bus lines through our area.

At present, our facilities are used by our residents traveling to work and students traveling to Christ the King High School, et cetera, and are already over-utilized.

In conclusion, we chose our communities to live in with the education of our children as our prime concern.

Whether we bought homes or rented apartments, as parents we have sacrificed to provide our children with the best education we can give them.

If any of the proposals thus far presented by the Board of Education are accepted, many mothers will have to return to work in order to afford private education for their children, others will feel that the only way for them will be to leave the city.

The fact is, our children are our most important concern. We as parents cannot accept seeing them used as pawns at the expense of their education, in an experiment aimed at correcting wrongs that are

so deeply rooted, for so long a time, that our children can only be the losers.

Therefore, we urge you to accept the proposal presented to you by the United Coalition.

Thank you.

THE COURT: The Coalition?

MRS. BUSCEMI: Yes, the United Coalition.

THE COURT: I think Miss Lustig has already spoken.

MISS LUSTIG: No.

THE COURT: You have a second voice?

MISS LUSTIG: When I spoke the first time it was to explain the Coalition.

THE COURT: I see.

MISS LUSTIG: Your Honor, thank you for this opportunity. I am speaking to you now as President of the Southwest Queens Educational Alliance.

The Southwest Queens Educational Alliance is an organization of 22 schools located in District 27 Queens. At this time it represents two elementary schools already zoned into Franklin K. Lane from Woodhaven, John Adams and Richmond Hill High Schools as well as five elementary schools tentatively zoned into Lane under the new Board of Education proposal. We also represent J. H. 202 and J. H. 210 which will be subsequently referred to. Because of various

unique situations confronting District 27, we find ourselves unable to accept the Bd. of Ed.'s plan as presented.

At the time the Lane decision was handed down District 27 was on the verge of a total rezoning in order to accommodate the long-awaited I. S. 226. Several years ago this school was promised to our district so that we could alleviate the overcrowding at J. H. 202 and 210. In addition, it would enable students from South Ozone Park, a predominently black community to return to school in District 27, where they reside. Many of the S.O.P. residents are now forced to bus their youngsters at a very early age in order to avoid sending them to the segregated junior high school they are presently zoned into in a neighboring district. For us to equitably balance all three schools ethnically and scholastically as well, we are counting very heavily on the return of many of our 9th grade students from John Adams, Richmond Hill And Franklin K. Lane. Without the ability to create a 9th grade in our junior highs, there is no doubt that all three schools will tip to a precarious level. That coupled with the increasing shift of population in south Queens will surely result in a grave reduction of quality education for all our children. We ask

only that we be afforded the flexibility we need to allow our children to attend schools that can be ethnically balanced and educationally sound. To our mind merely shifting the same student populations problems from one level to the next is merely an act of futility.

While the previous statements are our gravest concern, it seems necessary to touch on one additional point. Students residing in District 27 commute to school via privately run franchised bus lines. This method of transportation has resulted in creating a substantial amount of frustration for all concerned. The quality of service is at its best poor. We have discussed this problem with our Community School Board and the Central Board of Education on numerous ocasions. We have gone to the Borough President, the Franchise Commissioner, the Attorney Generals office, written to state legislators and even to the Congress of the United States. All of the above-mentioned agree that our arguments had merit and yet none have been able to ameliorate the situation. Because traveling to school has been and continues to be such a negative experience, few parents wish to subject their children to longer more extensive bus rides, especially where one or more transfers are

required.

With these thoughts in mind, and at the same time with the belief that students attending Lane are entitled to the best education that can be provided, the Southwest Queens Educational Alliance joined with other organizations in sponsoring the proposal of the United Coalition of Woodhaven. We respectfully ask the Court to view our proposal as an equitable solution, capable of implementation, creating the least hardship, able to upgrade and enforce a positive educational environment for students residing in the Lane area, affording a special educational opportunity for Brooklyn and Queens students which heretofore they could not receive, and as a result to adopt it in its entirety.

Furthermore, your Honor, I would like to bring out the fact that while this Court was ruling on one high school, a high school with a very legitimate situation, it was doing so because that was the case presented.

Well, Franklin K. Lane was suffering the trauma of the 60's, so were the other high schools, John Adams, Richmond Hill and many others. Our district is one that is integrated educationally, scholastically, economically, socially. We are a microcosm of the

City of New York. We have 34 schools in District 27 and of the 34 I believe 17 are now Title 1 schools.

Now, we could come into court and ask that you alleviate our problem by shipping us children from some other district, but we know that that would upgrade the index of school and do very little to upgrade the education of our children, because it is obvious, if you bring in children who are naturally ahead and doing well, of course the scholastic average of the school will rise, I mean there is no doubt about it.

But when, thinking in terms of the youngsters, we have found that the underachiever, unless his problems are dealt with directly, are not solved by bringing in other youngsters who are fortunate enough to get a better education.

So we try to deal realistically with what we have and we have tried to stop movement, we have tried to stop people from leaving our community and many times our schools have been in such turmoil, especially one of the junior highs that I have mentioned, that people would have gladly run. But it has always been the task of the Alliance to prevent this from happening. We are very proud of ourselves in District 27. We are very proud that we have been

able to maintain what we have got, what we don't have is enough to pass around.

We just can't stand by and see the rug pulled out from under us and this rezoning very well could do that.

Thank you.

THE COURT: Mr. John DeRiso.

Mr. DeRiso represents the District 27 Parents Association.

MR. DeRISO: Without disturbing the decorum of the court, I would like, your Honor, to remove my tie.

We are most grateful for the opportunity to address the Court. This is the first time our organization, with the exception of our Community School Board, has been given the opportunity to provide information in an important and democratic procedure such as this. We appreciate your invitation and enjoy the right to be here. We are most grateful.

Our federation is composed of delegates from 17 public and elementary schools, one Catholic high school and two parish communities. Slightly more than 10,000 people attend these schools.

As an educationally oriented organization, our main concern is to provide our children with quality

schooling which will enable them to develop their abilities.

We want the schools to free our children of the millstones of ignorance, prejudice and undeveloped potential.

We take the responsibility as our children's first educator seriously. We try to develop in our children a love for God and neighborhood, a desire for learning. We teach our children respect for our country and for our laws. We strive to build in our children a sense of community and genuine concern for the individuals who make up our community. In short, your Honor, we want our children to develop their talents for their own satisfaction and as a means to contribute actively to the satisfaction of their neighbors, in particular, and their community in general.

We have not surrendered our right of first educator to the Board of Education of the City of New York. We have only delegated the task of schooling our children to that agency because in today's complex society they are better equipped to perform the task at a high school level.

We support educators in their efforts to school our children; however, when we believe they have

erred, as we believe they have done in this case, we are compelled to exert our authority as parents and first educators to voice our disagreement and to take action to correct the wronged situation.

Presently, three of our elementary schools feed into Franklin K. Lane. Eight send pupils to John Adams High School and five of our elementary schools provide Richmond Hill High School pupils. Few pupils, if any at all, from our organization attend Grover Cleveland High School.

I wish to make it clear that our organization has an interest in the well being of all the schools that our children attend. We do not advocate the improvement of one school at the expense of another. Furthermore, we wish to point out that we are sensitive to the finely spun, delicately and intricately interwoven strands of our community.

We know that a rupture in one segment of this web could have serious repercussions in other areas. We contend that the Board of Education's proposal to rezone Franklin K. Lane will have profound and disturbing effects upon our communities. For these reasons, District 27 Parents Federation participated in the formulation of the Coalition's proposal. We strongly urge its adoption. We believe the Coalition's

plan gets to the heart of the problem at Franklin K. Lane without cutting the heart out of 570 families.

How do we propose to obtain an educationally and legally sound racial mixture in Franklin K. Lane's population?

Your Honor, our figures tell us that currently approximately 680 pupils whom the Board of Education euphemistically calls "others" and who reside in the present Franklin K. Lane zone are being graduated from parochial, non-public and public schools. These children do not --

THE COURT: Did you have a number on that?

MR. DeKISO: Approximately 680. These children do not attend Franklin K. Lane. We Know that about 204 of these children, about 30 percent, elect to attend either Catholic high schools or special public high schools. Where do the remaining 476 pupils attend high school?

Now, this has been a mystery to the Board of Ed, it is not to us who live in the involved community. Let it suffice to say that the parents of these pupils use various means to register their children in other zoned high schools rather than send them to Franklin K. Lane. The Coalition's proposal addresses itself directly to this matter. We contend that if

Franklin K. Lane's image were improved and that the school were known to be a viable institution -- and I stress the word "known," -- many of these families might be willing to send their children to their neighborhood school which Franklin K. Lane is, in reality.

We believe our proposal for a magnet program will do just that. Within four to five years, 1900 or more children residing within the existing Lane zone in the "other" category would be enrolled in Franklin K. Lane. The Board of Education would not have to force children into Lane to achieve the desired racial balance. It would be unnecessary for the Board of Education to propose a plan that would uproot some children in one community and against their parents' will transplant them in another community.

We question the justice of the proposal that would use the children of other communities as raw materials to resolve a problem that their parents in no way created or contributed to, or helped to sustain.

We question a plan that breaks the traditional links that many of these children have to John Adams High School, Richmond Hill High School and Grover Cleveland High School, because their parents, and

in some cases their grandparents attended these schools.

We question the widom of the Board of Education's proposal for rezoning that would disturb the fabric of the Ozone Park, Richmond Hill, Woodhaven and Howard Beach neighborhoods and that could set into motion a deleterious chain reaction that would signal the end of one more stable New York City community.

Your Honor, the people of Woodhaven and Cypress Hills have asked for an immediate expression of concrete action to raise the morale of their communities and restore their confidence in the City's agencies.

The Coalition's proposal and timetable we believe gives them that sign of commitment. Pulling in the western boundary of Lane this school year tells the people to hang on. Movements are bein, set in motion to help rectify a situation that for too long has been allowed to drift and fester. This concrete demonstration combined with the adoption of special programs in 1975 will do much to encourage those 476 families to return their children to Lane and may even cause some of the other 204 families to consider Lane for their children.

The Coalition's plan is a community orientated plan, the only one with community import, designed

to serve the educational interests of all the children involved.

It is a plan based on consent, not coercion. It makes no one a victim and no one a scapegoat. The plan combines what we believe to be sound educational thinking with sound sociological principles, and without recourse to the cynical tenets of social engineering.

District 27's parent federation recommends the Coalition's proposal as one encompassing good sense and good will.

Thank you for your attention, your HOnor.

THE COURT: Is John Gannon here?

Mr. Gannon represents St. Mary Gate of Heaven Home and School Association.

(Continued on next page.)

MR. GANNON: Judge Dooling, I want to thank you for this opportunity to speak here today. I am the President of the Home School Association, Saint Mary Gate of Heaven, and we are one of the member organizations of the Parents Federation, of which Mr. De Rizzo is President.

Although this is a unique experience for me, I welcome the opportunity to present the views of our Association, which represents approximately 600 school families. I would like to start by referencing an editorial which appeared in the Wall Street Journal on Wednesday, July 31st, and I quote:

"If the impeachment hearings hadn't occupied everyone's mind, last week's Supreme Court decision in the Detroit School desegregation case would probably have been the most widely discussed ruling of the year. Chief Justice Berger's opinion signals a major and, and to our mind, much needed shift in social policy. Although headlines focussed on bussing, the true question was whether the business of producing an abstract numerical ratio of black and white overrode every other consideration. Justice Berger answered, 'No,' that some other things must also be weighed in the balance -- in this case, the integrity of local school districts, if they haven't been shown to be violating law, or the Con-

stitution."

The editorial continues:

"As Justice Berger emphasized, local control of the school is an important American tradition, not to be overturned lightly, when there has been no proof of wrongdoing by some of the districts involved.

"We suspect that the emotional force of the bussing issue came not from racism, but from the notion that a Federal Judge or bureaucrat could reach into a community, almost at random, and overturn its local school for no clearly stated reason, except for a vague appeal to dubious social science.

"The judicial attack on segregation has been a noble and very worthy enterprise. Segregation, a social policy based on racial distinctions, was vicious and offensive, as well as infinitely stupid. But the attack on segregation, partly because of this judicial character has been fixated on the bounce of this stupidity, concerned with the racial makeup of a classroom. Instead of insuring that race is irrelevant, the goal has been to obtain a class with a fixed proportion of black and white. But of all the elements that go into learning, skin color is probably about the least important."

The editorial concludes:

"We hope, finally, that the Detroit decision will

be the first step in easing away from quotas and goals and counting-up of racial proportions. Such devices make sense only as a temporary and very extraordinary corrective, and this theme seems to underline Justice Berger's decision.

"In the end, we have to find our way back to the principle that the Constitution is color-blind."

And so ends the editorial.

Your Honor, I find myself philosophically in agreement with the editorial, particularly as I relate it to the Franklin K. Lane situation.

The Board of Education rezoning proposal, and the six-point plan submitted by the Community Coalition, which includes District 27 Parents Federation, among others, and the interests and concerns of the communities of Ozone Park and South Richmond Hill.

We must emphatically state our total disagreement with and rejection of the Board of Education's plan. This plan is totally inadequate and unacceptable. It deals -- It does not even begin to remedy the problem, and represents a crude attempt to satisfy a mandate of this Court. The Board plan does nothing for September, 1972, it does nothing to upgrade the educational level of the institution. It does nothing to improve the image and attract those students now in the eastern

sector of its zone. It is totally insensitive to the needs of the neighborhoods from which it so arrogantly presumes to transfer our children, concerns such as the effects on our tradition of neighborhoods -- the traditional neighborhood schools of John Adams and Richmond Hill, such as our children's being on two or three busses, rather than being able to walk to school; such as the current transitional nature of our community; such as the anger, frustration and near-panic the Board proposal has engendered in the minds and hearts of monay of our hard-working, moderate-income parents.

We do wish to express our thanks to the Board of Education for one thing, however -- Their proposal is so poor and so unacceptable that it has united us all into a dynamic coalition of parent, school and civic groups, determined to resist the Board plan, and work for the successful implementation of the six-point Coalition plan.

Your Honor, we respectfully urge you to reject the plan which has been proposed by the Board of Education -- a plan which does nothing for the school or the students, and which would have a very negative impact on our community.

Please do not minimize the poor reception the Board plan has received from many of our people in Ozone

Park, people who have sunk their life savings into their home, who work a second job to send their children to their parish school, who live near John Adams High School, and were planning to send their children to John Adams, and are now talking of moving from the neighborhood rather than be forced to send their children to Franklin K. Lane.

Our community would be punished, as it were, for the sins of the Board of Education, if their proposed plan is implemented.

We ask you, Judge Dooling, to direct the implemention of the Community Coalition Six-Point Plan, as a plan which is positive, which will upgrade the educational level of Franklin K. Lane; a plan which will attract students from the pool of approximately 2,000 high school-age children now living in the eastern sector of the present Lane zone -- students who now avoid the school like the plague -- a plan which would become effective in September, 1974, rather than delaying further; a plan which is constructive and innovative; a plan which was developed by the community; and therefore a plan to which the community is committed.

We look to this Court with trepidation and hope, and await the decision of your honor in this matter, which will directly or indirectly affect the lives of thousands

of us -- and our children -- for many, many years.

If I might, your Honor, I have been requested by Mr. Delli Bove, who was here earlier, and left a written statement --

THE COURT: Sorry, I didn't get this name.

MR. GANNON: Delli Bove, who is the State Assemblyman from Richmond Hill. He was here early, and has submitted a written statement to the Court.

Mr. Delli Bove regrets he was unable to stay, but he has a meeting with the representative with the City Administration on several other community matters. Mr. Delli Bove has asked me to make his views known to the Court.

Mr. Delli Bove has read my manuscript and the Coalition Six-Point Plan, and he wishes it known that he supports the proposal of Community Coalition.

Please let me stress this -- Mr. Delli Bove's position is that he rejects the Board of Education's proposal, and supports, without reservation, the Six-Point Plan of the Community Coalition.

Thank you.

THE COURT: There is here, Mr. Gannon, a letter from Mr. Delli Bove on his official stationery, explaining that he already expressed his views at Community meetings.

As I unders nd it, he doesn't seem explicitly to say that in his letter, but he would --

MR. GANNON: I did come down with him on the train this morning. We met on the train, and he did hope that he would be able to speak earlier, but when he saw the crowd, he said he couldn't, so he requested to see my manuscript, he had read the Six-Point Plan, and outside he did ask me to make that statement.

THE COURT: I take it that he would join you in favoring the Coalition Plan.

MR. GANNON: Right, he does.

THE COURT: Miss Naomi Booker.

Miss Booker is from the Parents Association of John Adams High School.

MRS. BOOKER: I am Naomi Booker, President of John Adams High School -- President of the Parents Association of John Adams High School, and representative of the parents of said school.

John Adams High School, as many high schools in the ci , has had its internal problems in the past. Through the consorted efforts of both the parents of students in the school and of the community, after many years of diligent and untiring work with the administration and the faculty, John Adams High School is now a school to be proud of, a school a parent can send their

child to, knowing that a well-rounded education can be achieved within a healthy environment. This is based on its present zoning, with a natural favorable integration. We therefore respectfully submit the following objections to the Board of Education's proposals:

1. The parents of John Adams High School feel that the board of education is in direct violation of the by-laws spelled out in the manual entitled "Parents' Association and the Schools" dated April 15, 1971, which states: "The Board of Education through the Chancellor and the Community School Board, shall carry out their power in frequent prior consultations with the respective Parent Associations and Parent-Teachers' Association."

2. The parents of John Adams High School, based on the findings of the Court on May 16, 1974, feel that Franklin K. Lane High School as it now exists requires a completely new image in order to encourage attendance and attract students. We feel no plan can be implemented in Franklin K. Lane High School to upgrade the school without first upgrading the administration, faculty and curriculum.

3. The parents of John Adams High School feel that the proposed rezoning is not feasable , since it would place John Adams High School in the same zoning

situation that now exists in Franklin K. Lane High School, namely, causing John Adams High School to extend itz zone further into Queens. Under the Board of Education proposal, students presently within walking distance of the school would now be compelled to be bused to another school.

4. The parents of John Adams High School have noticed under the Board of Education's proposal that at the end of four (4) years, Franklin K. Lane again will be a racially segregated school, having a student population of 80 percent White and 20 percent Black and Puerto Rican. This situation would be identical to the situation the Board of Education is now attempting to rectify.

We therefore wish to go on record that we support the Six-Point proposal submitted to you on July 9, 1974 by:

United Coalition of Woodhaven

President's Panel of District 24

The Southwest Queens Educational Alliance

Woodhaven Resident's Block Association

Parents' Association of John Adams High School

District 27 Federation of Parents

Home School Coalition of District 24

Cypress Hills Community Block Association and the Associated Organizations representing Ridgewood, Glendale,

Middle Village, Maspeth and Liberty Park

The Italian Civil Rights League

Respectfully submitted, signed Naomi Booker, President, Parents' Association John Adams High School.

I would also like to say, after listening to the speakers today, you gave the parents and all the community leaders a chance to speak, and we all had our day in Court, right?

I feel that it's time we forget the parents and the community leaders and started thinking of the children. The novelty has worn off, and children, black and white, are beginning to resent the fact that they are being shifted over, all over to either increase or decrease.

If the Six-Point program is implemented, I am quite sure there will be upgrading of the schools, and where it is geographically possible, integration will naturally follow.

THE COURT: Thank you, Mrs. Booker.

Is Mrs. Muriel Angus here?

A VOICE: She isn't, Judge Dooling. I will take her place.

THE COURT: You will be speaking for the Parents' Association of Robert H. Goddard Junior High School in Queens?

MRS. ROCKWOOD: Yes, I am the First Vice President.

I am Kathleen Rockwood, the First Vice President of the PTA of 202, Queens, which is a feeder school for John Adams.

We object most strongky to the proposed rezoning of our district. We respectfully request that Ozone Park and Lindenwood be left as it is.

Much of the zoned out area in Ozone Park is one block away from John Adams High School. Taking children who are within walking distance, and who wish to attend a well-integrated, effective high school, and forcing them to attend a high school with questionable educational quality, miles away, is an obstacle which would cause a hardship of many families in both communities.

Our children would have to travel on more than one bus or train, requiring them to leave the house much earlier, and returning much later than usual.

District 21 also faces another rezoning of our school due to the opening of I.S. 226. This will also affect John Adams High School.

Due to the problems we face with regard to this rezoning, no District 21 children can be removed from John Adams without hurting the entire District.

Therefore, we urge you to accept the plea submitted by the Southwest Queens Education Alliance, in cooperation with the Parents and Community groups. This plan

has met with widespread approval and support of all the communities involved. It will also upgrade Lane, making it attractive to the community, who claim they want their school returned to them.

We thank your Honor for giving us the opportunity to address the Court on this important matter. We hope for a decision that will be fair for all the children involved.

THE COURT: Thank you.

Is Miss Josette Lowenhaupt here?

She speaks here for the Parent-Teachers Association of Public School 63 in Queens.

MISS LOWENHAUPT: Your Honor, my name is Josette Lowenhaupt, PTA President of P.S. 63, Queens, the Ozone Park feeder school to Junior High School 202, then to John Adams High School.

Also, we are a member school of the Southwest Queens Educational Alliance. We represent a large part of the area which was wrongfully removed from John Adams High School, and rezoned to Franklin K. Lane in the Board of Education proposal. We protest most strongly this illogical rezoning, and the callous and underhanded manner in which these new lines were drawn.

Our community was not consulted, nor even notified of the extent of our impending zoning change. This pro-

posal deliberately and completely splits up the Ozone Park community. When a community is split in this way, often the result is a mass exodus from such community.

We feel the Board of Education incorrectly interpreted your findings of fact of May 16. We are confident that it was not your intention to harm other schools and communities in order to effect a solution for Lane's problems.

We feel that the Ozone Park area should not be included in the proposed rezoning for the following reasons:

As per the Board of Education's Spec al Circular, number 49, with regard to rezoning, adequate notification must be given to the interested individuals and groups affected. This was definitely not done. We were not a party to the original suit, and therefore have had no legal redress or input into this action.

Ozone Park is geographically and traditional committed to John Adams High School due to the community's close proximity to the school itself. Most of the zoned out area is within walking distance, and actually within sight of the school building.

Some of the area proposed for removal is only one block away from this school, and it seems to make no sense at all. This rezoning plan would cause a severe travel

hardship to the children of Ozone Park. All of the area zoned out would require combination of more than one bus and/or train to reach Lane.

Our children have to travel several hours per day to get to and from a school which is not of their choosing, when they can attend a neighborhood school within walking distance of their home.

Franklin K. Lane is located in a community which is deliberately circumventing by various means attendance in its own school.

MM fls

(continued on next page.)

My name is Josette Lowenhaupt, P.T.A., President of P.A. 63Q, the Ozone Park feeder school to Jr. H.S. 202 then to John Adams High School also a member school of the Southwest Queens Educational Alliance. We represent a large part of the area which was wrongfully removed fromJohn Adams High School and rezoned to Franklin K. Lane in the Board of Education proposal.

We protest most strongly this illogical rezoning and the callous and underhanded manner in which these new lines were drawn. Our community was not consulted nor even notified of the extent of our impending zoning change. This proposal deliberately and completely splits up the Ozone Park community. When a community is split in this way, often the result is a mass exodus from such community.

We feel the Board of Education incorrectly interpreted your Findings of Fact and Order of May 16, 1974. We are confident that it was not your intention to harm other schools and communities in order to effect a solution for Lane's problems.

We respectfully request that the Ozone Park area not be included in the proposed rezoning for the following reasons:

1. As per the Board of Education's Special

Circular No. 49, 1973-1974 with regard to rezoning, adequate notification must be given to the interested individuals and groups affected. THIS WAS DEFINITELY NOT DONE!

2. We were not party to the original suit and therefore have had no legal redress or input into this action.

3. Ozone Park is geographically and traditionally committed to John Adams High School due to the community's close proximity to the school itself. Most of the zoned out area is within walking distance and actually within sight of the school building. Some of the area proposed for removal from John Adams is only one block away from the school. It seems to us that taking children who wish to attend, and are within walking distance of, their regular, well integrated, effective high school and force zoning them to a high school of questionable educational quality several miles away makes no sense at all.

4. This rezoning plan would cause a severe travel hardship to the children of Ozone Park. All of the areas zoned out would require a combination of more than one bus and/or train to reach Lane. Our children would have to travel several hours per day

to get to and from a school which is not of their choosing when they could attend a neighborhood school wi within walking distance of their homes.

5. Franklin K. Lane is located in a community that is deliberately circumventing, by various means, attendance in its own school. To force unwilling outlying communities to attend Lane would only encourage more of the same.

6. According to your Findings of Fact, the zone line for Lane was improperly placed alongside the building on one end and extending several miles to the west in Brooklyn. We feel you cannot logically accept a zone that places John Adams one block from its zone line on one end and extends four miles to the east in Queens. We also wish to point out that the number of children to be removed from John Adams as given in the Board's proposal is incorrect. We have checked and a more accurate figure would be at least 27% higher than the 204 per year predicted by the Board.

7. As Ester Lustig, President of the Southwest Queens Educational Alliance, so ably stated, District 27 faces a rezoning of the Jr. High Schools due to the opening of IS 226. This rezoning will affect John Adams greatly . In view of the problems we face with

regard to this rezoning, no District 27 children can be removed from John Adams without harm to our whole District. John Adams is a naturally well integrated high school in all respects, racially, religiously, socio-economically and academically. No part of this school should be endangered or placed in jeopardy in order to correct ills in another area.

8. The recent Supreme Court decision states that there should be no bussing across district lines unless both districts actively collaborated to keep their schools segregated. Our district has done no such collaborating. We are not responsible for the zoning or the problems at Lane. Since we bear no responsibility, why should our children be used to produce integration in a situation not of our making.

Therefore, we urge you to accept the plan submitted by the Southwest Queens Educational Alliance in cooperation with a coalition of parent and community groups. This plan has met with widespread acceptance and the support of all of the communities involved. It would give Lane a naturally integrated zone. It would also upgrade Lane thereby making it attractive to its contiguous community who claim they want their school returned to them. Trying to force zone is not the

the answer. The plan we endorse is the only common sense solution.

We thank your Honor for the opportunity you have given us to address the Court on this matter of great concern. We hope for a decision that would be fair and equitable to all of the children involved.

###

P.S. 64 Queens
101st. Avenue & 82 Street
Ozone Park, New York 11417

We back and urge the acceptance of United Coalition proposal that the Southwest Queens Alliance has taken.

We are in favor of making Franklin K. Lane a desirable school where every child attending get the education they so justly deserve but after checking with the Transit Authority and learning that our children who only have to take one bus from door to door be made to take three buses and travel approximately 55 minutes besides getting on and off buses before they reach school which is very exhausting to begin with and then return home the same way about 6 p.m. in the dark plus rain snow etc. in the winter time away from their home community where they belong and put in

a strange community. How can they do a proper day's work when by the time they get to school they are all worn out from travelling in circles.

Let us not build up one community be destroying another which is in our estimation would be accomplishing exactly nothing.

Respectfully yours,

(signed) Mrs. Edith Cietrane

President Parents Association

###

My name is Michael Long. You have heard from many articulate spokesmen on their stand for the Board of Education plan. I am coming from Cypress Hills section of Brooklyn who has been in the Franklin K. Lane crises since since 1968 and on many occasions have met with both the administration of the school and the members of the Board of Education at 110 Livingston Street of basically the same situation and have requested similar plans from the Board since 1968. The plan I speak of is theplan of the coalition. We have spoken out since 1968 pleading for relief, pleading for help.

Your decision has once again lit a candle in Cypress Hills. We can make Franklin K. Lane a vital and viable school again.

We the residents of Cypress Hill with the residents of Woodhaven, without distributing the other three schools, can make Franklin K. Lane a viable school.

THE COURT: I take it some or all of your community is within the Franklin K. Lane zone.

MR.LONG: All of our community is within the Franklin K. Lane zone.

We residents of this section, all of -- all political parties feel strongly that this is our school and we can make this a viable school if the six point program of the coalition is adopted.

I will not waste your time.

Itthink it is very clear and very pointed to the point.

Thank you very much.

###

FROM: Parents' Association
P.S. 232Q
153-23 83rd Street
Howard Beach, N.Y. 11414

DATE: August 2nd, 1974

TO: Hon. John F. Dooling, Jr.
United States District Judge
Federal Court Building
225 Cadman Plaza East
Brooklyn, New York 11201

RE: Franklin K. Lane High School Rezoning Plan

As President of the Parents' Association of P.S.

232Q, in Lindenwood, Queens, a school of 1150 children, I would like to speak on two points. Point one is the redesign of Lane High School. Point two is the rezoning of Lane as it affects the children of Lindenwood.

One would find it difficult to argue against the proposed plan as it appears on paper for the educational redesign of Franklin K. Lane, as submitted by the Board of Educatic xcept inrespect to the financing of said plan and its acceptance by the people involved. The succes of the Board of Education plan hinges heavily on whether or not sufficient funding will be provided by private sources. Realistically speaking, the feasibility of private funding appears very remote and will have the effect of making this plan, although an excellent one, unworkable. It is our opinion that rather than broadening the zoning lines, the Franklin K. Lane student body should be scaled down to 2500 zoned students (as recommended in the United Coalition Woodhaven Plan, thereby permitting approximately 1000 children from outside the Lane zone the elective of attending Lane as a magnet school and benefitting from its innovative programming.

Needless to say, a dramatic change in Lane's

negative image is essential if any plan for the redesign of the school is to work. It is our feeling that to accelerate this change of image, a partial, if not complete, phase-out of the school is an absolute necessity for even a redesigned Lane to effectively attract students.

With the new image achieved by a partial phase-out of the school, and the expanded educational opportunities that will be available students would freely seek entrance to Lane so as to profit from the magnet program. And parents interested in gaining the best possible education for their children would willingly grant permission for them to attend. In this manner, you would eliminate the predictable problem of opposition on the part of most parents who presently object to the rezoning of Lane.

In regard to the Board of Education's proposed rezoning of Lindenwood children to Franklin K. Lane High School, the parent body of Lindenwood (elementary, junior and high school level) is greatly distressed over the Board of Eduation's complete disregard of Lindenwood's long-standing position in opposition to our community being subdivided in any way, manner or form.

To understand our feelings in regard to the rezoning, a familiarity with our geographic boundaries would be helpful. To our north are Linden Blvd. and Conduit Blvd., both 8-lane thoroughfares; to the east is Crossbay Blvd., another 8-lane thoroughfare. The Belt Parkway, a 6-lane highway is our southern border, and Spring Creek borders us on the west. Lindenwood is virtually an island.

The social life of our children is basically self-contained within our community. Because we are an education-oriented community, our children are geared to look forward to each level of education, and John Adams (an effective, nearby, integrated high school), by tradition, has played an integral part in our community life and activity. Lindenwood children have always played an active role in high school activities at Adams, contributing much in school spirit and academic standing. And Adams has aptly met the educational needs of our children. To the degree that, upon the opening of Beach Channel High School, a beautiful, new school, Lindenwood took a firm stand to keep our children in John Adams.

And now, the Board of Education sees fit to divide our community, placing a 10 block strip a block

and a half wide in the Lane zone rezoning approximately 30 children a year. Of these 30 children, we are sure the Board of Eduation will concede that roughly 25% will circumvent attending Lane by legitimate means, such as zoning variances for magnet and specialized schools, etc. The remaining 75%, or approximately 22 children, several of whom would be entering as 10th graders (having graduated from special progress classes), would then be mandated to Lane under circumstances which undoubtedly would create both emotional duress and social hardship for them. These children would be put to an additional hardship inthat they would be required to take three buses to Lane many having to walk as many as 8 blocks to reach the first bus. Most will be separated from their oldest and dearest friends and thereby isolated from the school-oriented neighborhood activities of these friends; all at a very difficult stage in the maturation of an adolescent, when belonging to a group plays such an important part in his social and emotional development. Certainly these children will be resentful of this fact and a resulting lack of school spirit and academic achievement on their part must be anticipated. Is it the Board of Education's design to undermine the eagerness of our children to

apply themselves to the business of learning? It is our feeling that the Board of Education is willing to' sacrifice the educational and emotional development of this small handful of children, who presently attend a nearby, effective, integrated school, in the quest of aracial balance that could be achieved with much greater success in other ways, such as the six point program submitted by the United Coalition of Woodhaven.

We are here to ask that you consider this handful of Lindenwood children which the Board of Education plan would alienate from our community. You have received thousands of Petitions from Howard Beach residents urging that our children not be rezoned from Nearby John Adams, where they will receiving effective, integrated schooling. We urge that you accept the premise of a scaled-down school, offering magnet courses, as suggested in the proposal submitted by the United Coalition of Woodhaven, I'd like to thank you Judge for the opportunity of expressing our point of view to you.

Phyllis miller
President, Parents Association, P.S. 2320
86-11 151 Ave.
Howard Beach, N.Y. 11414

###

Your Honor,

I am Rita Singer, Lindenwood School/Community Actions Chairman representing the families of elementary, jr. high and high school children of Lindenwood, and past president of the Parents' Association of P.S. 232. My point of view represents those residing on both sides of the unnatural boundary line which the Board of Education has drawn through the Lindenwood community

One of the most significant factors in the decisions of people who have moved to Lindenwood is the educational opportunities available to their children.

These very same residents are typicla of those, described in your Honor's Memorandum re: 71C502, who constitute the very backbone of the tax base which makes it possible for the City of New York to function as a city and to provide quality education for its children.

Any change in the educational opportunities open to any Lindenwood children can be expected to result, unfortunately for the city and especially for Lindenwood, in contributing to the continuing exodus of middle class families from the city to the suburbs who flee in despair and frustration in the face of changes in school feeder patterns, based on good intentions, but resulting,

nonetheless in the deterioration of the quality of education in the schools affected.

The parents of Lindenwood say they will always find some way to provide education for their children which is consistant with the standards they have learned to consider to be minimally acceptable, regardless of how they have to make personal sacrifices to achieve this aim within the limits of the law. They do not wish to leave the city. They do not wish to destroy the roots their families have here. They do not oppose integration in the schools. They do oppose the destruction of the available high quality education all Lindenwood children now receive at John Adams High School.

As a member of the John Adams community, I believe quality education is a school consisting of a student body which has learned to live and learn together effectively. It's a school administration and faculty devoted to and capable of preparing the members of that student body to effectively assume their place in adult society, and its' a community of parents dedicated to providing the necessary efforts to assure the first two components.

This type of quality, integrated education exists now at John Adams because its school community, through

good and bad years, stood by it. We must vigorously oppose the destruction of something good that already exists in order to use its pieces to build something else, for someone else, someplace else.

A good school requires community effort. It has taken us many years to achieve the present results. The communities contiguous to Adams, black and white, from low to middle-high, socio-economic brackets, from many religious and national origins, together have built and nurtured the John Adams High School community.

Your Honor, while we support in spirit your concern about achieving integration of the Franklin K. Lane student body, we urge you to do so without breaking down the educationally sound school community which we have built at John Adams High School, and without tearing away a part of the Lindenwood community. We urge your support of the plan of the United Coalition of Woodhaven as presented by Mrs. Esther Lustig, President of the Southwest Queens Educational Alliance.

84-29 153rd Avenue

Howard Beach 11414

###

Submitted by Lawrence Alaimo, President Woodhaven Residents Block Association:

Your Honor,

The solution to the problem at Lane lies in attracting white students to the school, especially those currently within Lane's zone -- from Woodhaven and Cypress Hills. Delays toward implementing positive changes, as is being recommended by the Board of Education, will only serve to discourage and drive away those who would attend Lane.

Your Honor ruled on May 16th, that De Jure segregation exists at Lane, and further that the zoning lines had been gerrymandered and manipulated by the Board of Education. Since 1968, when violence was rampant in the school, a seemingly endless series of meetings was held between our community leaders and the Board of Education representatives. Yes, they met with us, and they smiled as we left -- always providing the appropriate words of encouragement. We needed decisions that could provide relief, and received years of procrastination. With each passing year, the white enrollment at the school steadily decreased.

The realities of the situation had become painfully evident, the Board of education's words of encouragement were totally meaningless. Our residents have been forced to seek alternate facilities to educate

their children, many placing heavy financial burdens on themselves. And, for many others, the flame of hope had dwindled to a mere spark -- and they left our community.

Your ruling of May 16th, has lifted the spirit of the community. Much the same as a condemned man receiving a reprieve. The aspirations of every resident of Woodhave lies with this Court, and they anxiously await your next decision. We hope that your decision is to implement the six-point plan which was submitted by the Coalition of Civic and Educational Groups. We stress how critical it is that actions begin this September, thatthe Brooklyn portion of Lane's zone be removed.

The mood of my fellow Woodhave residents is clear, they wish to have their children attend their neghborhood HS, FK Lane. But they will not return simply because words are spoken. They will not return on the promise of change, as they have been deceived throughout. Timing is also critical. There is a general feeling of optimism and confidence that, at last, justice will be served. Implementing some positive changes this September will have a geometric effect, and pave the way to truly solving the problem. Allowing additional

delays will serve only to condone the present situation and turn the newly created mood of optimism to that of cynicism, and I fear their children will not attend home, as they no longer will be in our community.

###

My name is Mr. Schmidth S-c-h-m-i-d-t-h.

Thank you for the opportunity to address my comments on behalf of the Woodhaven Interfaith Community council which is an interstate organization within Woodhaven which covers a number of churches and civic associations in the community.

I am the president of Woodhaven Interfaith and due to the summer schedule we were unable to convene a Board of Directors meeting, however, I took an informal vote of the Board of Directors and they have all expressed for me their support of the neighborhood coalition plan which has been spoken about in great length all morning long.

It has my full support as president of the Woodhaven Interfaith Community School.

The remarks I am going to make are my own remarks.

They are remarks through my experience as a state assemblyman from 1964 to 1972.

My district was cut upthrough a decision of the

courts.

I would like just briefly to give some of the past history of this:

In 1964 the Board of Education did extend the Franklin K. Lane zone, further into Brooklyn and I don't know if that was an educational decision or a political one.

I kind of think it was a political one because it dumped some of the students that some other schools did not want into Franklin K. Lane.

The Board through their policy of bussing in a racial imbalance, I think the Board policy in the past has been a complete disaster and is one of the reasons we have so much trouble today.

When they started out with their so-called racial imbalance plan I think we had at least a 50-50 white and non-balance population in the city of New York, as far as going to the public schools and now I understand it is 65-35.

Whatever the Boards intentions were and their plans, I think it was a complete disaster.

In 1968 -- '69 we had a considerable amount of violence and trouble at Franklin K. Lane High School, as we did in some other schools, but if Franklin K.

Lane is a unique school, which it is, we even had a book written by one of the teachers at Franklin K. Lane, the name of the book was Race War at Lane.

That is an educational treatise to bring students into the school and I am afraid it did not succeed.

I n any case we had a problem, a two-fold one: educational and community and the educational problem was that many of our students in 1968--1969, were afraid to attend the school, afraid to use the bathroom facilities, lunch room facilities and they were afraid to go to school with good reason.

Many of the teachers were attacked and beaten in 1968 and 1969 and all this received tremendous publicity.

We also have a community problem with Franklin K. Lane.

People who walk in the vicinity of the school have been pushed and have had their pocket books taken, and stores have closed, stores that I recall and I have lived in Woodhaven allmy life, stores that performed vital service in the community.

During the school hours storekeepers lock their doors and you have to knock on the door and on a number of the stores in the community to gain entrance,

you had to knock and they were in fear of the students who are coming from Franklin K. Lane on the way home and would decide to stop and create chaos.

I am not saying all of the students that come into Franklin K. Lane create chaos but there are a few, a few trouble makers and have created a bad situation. There is a cloud that hangs over Franklin K. Lane High School.

It is not a school that we are shuffling people around with. This is a problem school.

What do we do about it?

Your decision tell us a lot, your Honor. We feel the non-white population in the school is close to 90% and I think I am -- well I will emphasize here it should be not who should be brought into the school but rather who should not be in the school in the first place.

It is obvious to many of us in the community that the District goes too far into Brooklyn and the immediate thing, Woodhaven, has a time-bomb over it with Franklin K. Lane because years ago children could be sent to parochial schools and because of the tuition going up higher, where parochial schools are closing and the tuition keeps going up and up where it is eight

or nine hundred dollars a year, we have a different situation.

We have people who can no longer send their children to parochial schools and that means one thing: they believe the community has created an unstable condition over the past years.

The Board has tied or toyed around with this and played politics with the cause in '69 and they had a rezoning situation and they set one community against another.

For the first time in the history of the Board of Education, they said we will let it be up to the local school board to decide whether or not we will accept the zoning plan in Ozone Park and parts of Howard Beach.

The whole school board about two or three thousand people attended and unanimously rejected it.

The Board said that is it. We have division in the community and sat back and did nothing. Meanwhile the community suffers and most important we are dealing here with children, and what plan is the best plan for the children.

I think without a question that it is this coalition plan.

I don't think any child whether black or white wants to be removed from his community into a strange community and if we drew the line in point, one in the neighborhood coalition, point one says draw the line on Pennsylvania Avenue. I am sure those children west of Pennsylvania Avenue will be very happy to have the opportunity to attend the school closest to them and by doing that that would sizeably reduce the non-white population in the school and perhaps restore confidence at Lane.

The second or third part of the neighborhood coalition plan is to attract students into the shcool.

I don't feel any student should be forced into Lane. It should be attractive. We have Beach Channel Drive where they have the school of oceanography and from my understanding there is at least 800 students that will be coming out of it, particularly Queens, that will be going to that school.

We have other specialized schools in which parents are willing with some reservation and some fear with travel conditions, the way they are, however permitting them to go into Brooklyn Tech and other schools and pursuant to this coalition school, why can't something be done at a line to attract students into Lane.

Now, we can't do everything at once and shuffle children around. I don't think it is fair to say to a girl or boy two or three blocks from John Adams High School and say you have to go to Franklin K. Lane, however, if there was some program at Franklin K. Lane to be decided upon by the community to attract the community, I think Franklin K. Lane will well see its way to the school that it should be.

I have to stressone important thing: the longer we wait the more and more people leave. This is a re-curring situation over the years. If we can implement plan point one of the communities plan and that is draw the line on Pennsylvania Avenue, this is a step in the right direction and to work out some kind of attraction to the school and it will work. It has worked in Beach Channel Drive. There are other schools in Brooklyn that have special type programs and why can't we do it at Lane. Your Honor, I appreciate the opportunity to speak before you and I admire your patience and please do not let this calm atmosphere in the court indicate the feeling in the community because they are very strong. We need something to be done desperately at Franklin K. Lane now.

My suggestion is implement the neighborhood

coalition plan but number one, this September show the people that something is going to be done and draw that line on Pennsylvania Avenue.

Thank you very much. I appreciate once again the opportunity to speak to you.

###

My name is Thomas Pugliesi. I am sympathetic with the communities of Woodhave and Cypress Hills, and the problems of Franklin K. Lane in the past as a dual Boro School. But for more years than we care to remember, Richmond Hill High School,has received more than its share of unjust zoning. As a Queens Boro High School, without the excuses of being a Dual Boro School. Yet, Richmond Hill High School has always maintained its high standard of Academic Education. But time and time again Richmond Hill High School, compared to Adams and Cleveland, has always been short-changed. Whether, we speak of zoning line, or to the simple fact, that for years Richmond Hill Hight School has had much more minority participation, than has Adams and or Cleveland. Let's look at the percentage involved. Richmond Hill High School, 64% white, 36% minorities. Whether we speak of now or in the projections of a late date, Adams and Cleveland, will have a minimum of at least 10% more

white enrollment than Richmond Hill High School. If the Court and or the Board of Education can explain the justice in these percentages, we as the Richmond Hill Block Association, take exception to this and to the changes of Zoning Lines of 102nd which is Richmond Hill and not Woodhaven Lines.

1. We accept the Board's integration policy, as long as Richmond Hill High School is equal in ethnic distributions to Adams and Cleveland.

2. Each school should have a sufficient population to enable it to offer a varied and stimulating curriculum.

3. There should be an effort to equalize the degree of utilization of the various buildings. There may be a need to review and revise the utilization formula.

4. It may be desirable to create situations of chioce for students in some areas.

5. No student's education should be interrupted by a transfer stemming from a zoning change.

6. Heed in zoning changes should be paid to major geographical dividing lines.

7. The presence or absence of transportation facilities is a factor to be considered.

In arriving at any decision, it is necessary that we adopt more of a clinical attitude and less of a "nationalistic" attitude of inflexible all-eglance to locality or status quo.

Also, lets not forget we the citizens of Richmond Hill have the same feelings and concerns that Woodhaven and Cypress Hills have concerning Franklin K. Lane.

Acting-President

Tom Pugliese

Richmond Hill Block Assoc.

Richmond Hill Block Assoc. supports Vito Batestta's Program. We also argue with the coalition that if the parents of the children of Woodhaven put their children in FKL this problem never would have arisen.

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(Continued on next page.)

T3R1
FK: MM

THE COURT: Thank you sir. I just want to make one thing clear, I think Mr. Gopstein brought out at the very beginning.

Under none of the plans that are under consideration would any child now attending any of these high schools be transferred. In other words, the basic Board policy is that once a child is admitted into the high school from the zone he will remain in that until graduation.

Mrs. Patricia Gmerek (Education Chairman Richmond Hill Republican Club.):

Your Honor I very much appreciate the opportunity to address this hearing today. I am education Chairman of the Richmond Hill Republican Club.

We are a county-wide organization with strong civic and educational interests, is deeply concerned over the Federal Court's ruling which ordered the Board of Education to come up with a plan to improve integration at Franklin K. Lane High Shool.

Education, when based on the philosophy of racial quotas, rather than quality education, produces an alarming concern regarding the future of education in America. It must be recognized, first and foremost, that it is doubtful whether every elementary or secondary school can ever become so correctly integrated as to meet

the standards of racial-balance-purity so dogmatically demanded by some misdirected altruists in the field of education.

The concept of demanding rigid racial quotas in schools is being rejected more and more by the American public, Congress and the courts. Stable communities are rebelling against this forced practice, and in many neighborhoods, people feel that this is just another form of unwanted "block-busting." Indeed, the exodus of one and one-half million peoople from New York City in the past ten to fifteen years can be significantly attributed tothe school practices mentioned above.

We believe that, in any final decision, on the Lane issue, the rights of the community must be protected, because these rights are in essence the civil rights of an individual living in a plural setting.

We believe that a student's constitutional rights are jeopardized when he is forced to attend a more distant school and/or a school with a lower academic standing than the one to which he would normally be assigned, solely for reasons of race. Where is his right to equal protection under the law?

We believe that the state is attempting to usurp

the rights of parents, both black and white, in the education and upbringing of their children.

We believe that sending minority children to schools all over the borough, many of which are located beyond a reasonable distance from their homes, likewise places an unfair travelling burden on them and has a negative effect onlearning.

We belive there are potentially dangerous psychological factors involved concerning minority children by establishing, through judicial [illegible]ss, that they are incapable of learning unless [illegible]are sufficient whites in a school.

We believe that the purpose of schools is to provide an education in the best possible environment conducive to learning. Our schools have functioned as sociological laboratories at the expense of the learning process.

We believe that the few schools which may not have a so-called desired "racial balance," because of natural neighborhood patterns, should be left alone. Let us not downgrade such schools which are still functional and providing good education.

We believe that Franklin K. Lane High School must be restructured in such a manner as not to affect the

well-being of the surrounding high schools and communities. A special curriculum should be implemented to accommodate students from both Brooklyn and Queens.

Finally, we believe thatthe Board of Education, and also the members of the United Federation of Teachers, who originally brought the suit on the Lane High School issue, (as reported ir the L.I. Press on Dec. 14th, 15th 1972, should agree to cease and desist in pursuing the fruitless goal of mandated racial balance, and address themselves to Education with a capital E. Then, we will begin to think in terms of schools, and not merely racially integrated schools. Thank you.

THE COURT: I think if one may say so, it rather puts the thing the wrong-way-round. It is not a question of trying to create racial balance but trying to remove discrimination against people by reason of their race.

MRS. GMEREK: Well, I think that is a highly debatable point.

THE COURT: No, it is not debatable in this country.

MRS. GMEREK: Well, your Honor, the onus with the very fact of this mandated racial balance.

THE COURT: It is not mandated racial balance.

MRS. GMEREK: The Board of Education has persisted in a policy of mandated racial balance in that most of the high school zoning has been done on that basis.

THE COURT: I do not think the Board agrees with you. That is a characterization of the Board's action which is not accented to by the Board and which would not be enforced by the Courts.

MRS. GMEREK: Well, I think the policies of the zoning in the areas, the zoning in high schools and the history of it does not uphold --

THE COURT: I suggest you read then the statistics.

Mr. Rogern Hennin (Franklin K. Lane Parents Association)

I am not a lawyer, I am not a orator. I would not try using any $25. words and I would not want to be a judge. I am a father, though.

I am treasurer of the Franklin K. Lane Parents Association. My two oldest sons go to Franklin K. Lane High School. I am a member of the New Haven Block Association and a member of the St. Thomas Apostle Home School Association and I am here also in behalf of my children.

The whole problem lies in this particular area here, not the green or blue or pink but the area which is excised.

THE COURT: That is presently in the Lane zone.

MR. HENNIN: That is right.

You received my letter requesting to speak, I believe.

THE COURT: Yes.

MR. HENNIN: Inadvertently I proposed a plan which seems to come very close to the coalition plan, the Claymor Pennsylvania Avenue Coalition, and not bothering with the other districts, the other areas.

My sons graduated from St. Thomas, a parochial school. I unfortunately am not a wealthy man and I could not afford to send my children to other schools outside of the area so to Lane they went and I went along with them. When my children were involved in scouting I became involved in scouting. Where my children go I go, I make sure I get involved with them. That is the type of person I am.

What I do not understand, your Honor, is that they have had this big long zOne here and theyhave been allowing this zone to remain this way. When I speak of they I speak of the Board of Education because

they have created this zone.

Your Honor I have a question to ask you. If I was committing a crime for two years would you give me two more years to continue the crime?

THE COURT: I think you ask the question you meant to be its own answer.

MR. HENNIN: That is exactly what the Board is proposing. They are proposing not to change anything; have the new students come in in September, keep the same problems and just perhaps create them a little more and then next year don't have any students come in.

What is going to happen to students who are supposed to graduate from St. Thomas let us say and Blessed Sacrament and Saint Elizabeth and P.S. 60 and quite a few of the other schools in the Woodhaven area and I am not familiar with the schools that are in the Cypress Hills area. Where are those children supposed to go next year when there are no children going to Lane?

This they do not tell you.

THE COURT: You mean that is one of the alternative plans?

MR. HENNIN: Yes.

THE COURT: I do not think that would take effect, Mr. Gopstein, for '74-'75, that is alternative A.

MR. GOPSTEIN: It would go into effect '75-'76 and the other 76-'77 plan, thatis plan A and plan B.

THE COURT: But in either one there would be no change in feeder patterns this year as the Board presently plans it.

I think the question Mr. Hennin has asked in alternative A what will happen to the children who would normally be routed into Lane?

MR. GOPSTEIN: Children this coming school year?

THE COURT: In the first operative year of plan A.

MR. GOPSTEIN: I am trying to remember which is A and B.

THE COURT: A is the longer hold plan.

MR. GOPSTEIN: Under the long range plan the entire entering class of Lane as it now exists would go to eleven schools under an operational arrangement. The children who would be rezoned in the other areas --

THE COURT: That is not to answer your question specifically. Other children in that interim run down would opt to go to one of the eleven schools listed.

MR. GOPSTEIN: This would be in other words

white and minority children for that one school.

MR. HENNIN: No children from this area would be admitted, is that right?

MR. GOPSTEIN: That is right.

THE COURT: They would opt to go to either Jefferson or Grady which are vocational or to Forest Hills, Newton, Bryant, Grover Cleveland, James Madison or then the children from the other end would go to James Madison, Sheepshead, Lafayette or Franklin Roosevelt. But you are right they would not be specifically zoned in but they would go to a school of their choice to the extent that opportunity was open.

MR. HENNIN: So our younger son will not get to go to Franklin K. Lane.

THE COURT: He would not under the plan.

MR. HENNIN: Even though we live three blocks from Franklin K. Lane.

THE COURT: If he was going to register as a freshman.

MR. HENNIN: He will be registered as a freshman in 1976.

THE COURT: In 1976? He could if he is presently in the Lane zone, he would go to Lane.

MR. GOPSTEIN: In 1976 he would go to Lane.

MR. HENNIN: I thought 1976 was the year they were not going to take any students in?

MR. GOPSTEIN: Under the more long range plan, 1975-'76 there is no entering class into Lane so all the students in the present Lane zone go to other schools. In the next school year, the first year when students from the new Lane zone attend school the new Lane zone of course includes the Woodhaven, Cypress Hills area so children at that time would be entering Franklin K. Lane.

MR. HENNIN: Well your Honor it is a lot of talk.

THE COURT: You have to look at page nine. It takes a little close reading.

MR. HENNIN: I do not have a copy of it, I never received a copy.

THE COURT: You can pick pick one up here.

MR. HENNIN: Thank you. To sort of sum up, I do not want to take a lot of your time, I want to thank you for allowing me to speak. I believe inthe coalition program. I believe the line should be drawn at Pennsylvania Avenue and it should be drawn now not at some future date.

We have heard stories about what the Board of

Education is going to do for us years and years and years and they still have not done it and seeing is believing. I come from Missouri I think and seeing is believing and I do not ever believe they are ever going to do anything for us.

THE COURT: Thank you Mr. Hennin. Was it your thought Mrs. Hennin was also to speak?

MR. HENNIN: No, she might but she would rather not speak, she is on the nervous side and she does not like sending her children to Franklin K. Lane. My sons were very lucky in that they got into a very special program, Career Development Institute which is located at Franklin K. Lane only there are not too many children involved in this program. They do not eat in the cafeteria, they are separate, they -- their program is separate from the regular school curriculum. It is a program I have been trying to push for quite a while to make people aware. However our local papers and press and other media do not wish to give it publicity. I would like to submit a copy of it. I am going to get it in the public hands one way or the other. It is entitled, "What is Wrong with Franklin K. Lane High School?"

MARY JANE GRASWALD (Member of F. K. Lane Adult

Education Center and Woodhaven Resident Block Association.)

Before I begin to read my speech I would like to make one clarification that Mr. Alaimo stated. I do not know if you understood him to mean that all of Woodhaven was included in the Franklin K. Lane --

THE COURT: No I did not.

MRS. GRASWALD: It goes up to Woodhaven Boulevard. I just wanted to clarify that in case your Honor misunderstood.

As one of the representatives for the people of Woodhaven, we would like to go on record as follows:

We must have an implementation of an integration plan for September of 1974.

According to your May 16, decision the Board of Education is guilty of dejure segregation. After taking into account all the plans submitted by the Board of Education it is our opinion that the Court must enforce the law in this case.

On May 30, a plan was presented at Clara Barton High School that immediately had all Queens communities up in arms. The Board then asked for a stay to submit final proposals which wehn submitted on July 14, were almost identical to the one of May 30, geographically.

Why the delay?

As far as Part III, implementation of their proposal it is nonsense. Since your decision any parent who could be effe c ted by the change is aware that the zoning situation could be for this September. The students involved are young adults not grammar school children.

For the educational redesign segment the same applies. Lane has a redesign committed and as a participant on the principals council we are aware of community and staff suggestions that the high school division of the Board of Ed have been informed about, and have given the initial approval on. The new suggested themes given in the proposal are totally unsatisfactory to our community.

The public relations section is outdated. Respnsible departmental heads already go to our feeder schools describing the different curriculums at Lane. The same holds true for the program and guidance sections.

If the Board of Education was at all sincere about their proposals the section about funding would not have been so vague. Some type of commitment would have been stated.

We feel the Board is asking for an extension to

be allowed to continue to break a constitutional law. If the Court grants this extension both black and white students will continue to be educationally neglected.

It is truly a sad situation that the major Board controlling the education of our children is asking for a two year delay instead of putting all their efforts into rectifying their errors.

Your Honor, we know you are aware of the additional students our high school is to receive for September, 1974. As of this date those 534 additional applications are still in our admitting office. This proves beyond a doubt that the Board has no intention of complying to an order unless forced to do so.

As a community we are asking the Court to render an expedient decision it feels is justified for all communities in order to integrate Lane H.S. for September 1974.

As a very concerned parent for our children's future education I want to thank you sincerely for all the consideration you have extended to us.

THE COURT: Do you definitely have a position as favoring any one of the specific plans apart from the part three of the Board's plan?

MRS. GRASWALD: Part 3?

THE COURT: I mean apart from Part 3 of the Court plan.

MRS. GRASWALD: I think you misunderstood the way I meant to bring it across to the Court. I do not favor any part of the Board's plan. I feel that any proposal that was given in the Board's plan is already going on inside our high school. Whatever they have offered we already have been doing inside the high school.

THECOURT: What about the rezoning plan?

MRS. GRASWALD: I support the coalition plan.

LORRAINE C. PULIS (Queensboro Federation of Parents Clubs):

I am from the Queensboro Federation of Parents Clubs which represents one hundred some odd schools in the county of Queens which we all know is Grover Cleveland and John Adams and Richmond High School and also includes member schools of Newton, Bryant and one of the other or several schools which are in this plan to send these some six hundred odd children to in the event they do not go to Lane this year.

I am sure and I hope your Honor will appreciate and the people I am sort of in a terrific bind as to which way to go because some of our schools wanted to go

one way and some of us schools wanted to go another way.

However, I want to make it very plain after much conversation here today about the Board of Education that we at Federation were extremely pleased when the plan was presented to your Honor in that we had discussed the whole Franklin K. Lane situtation at the last Federation meeting with Mr. Anchor. The chancellor holds monthly meeting with all federated groups in the city which Federation is one. We had quite a discussion at the last meeting in June and we at least were pleased, with whether we agree or disagree with the outcome that all of theideas we discussed that day were incorporated in the plan which was presented to you.

With that as a background, may I just say after listening all day and as I am last I believe.

THE COURT: I believe there is an added star to this group.

MRS. PULIS: I am not last, that makes me feel a little better.

There has been a goodly amount of discussion today about theconditions at Lane -- that its educational program is remedial. That the school has been

allowed to deteriorate, has deliberately been allowed to be segregated, has -- and so on and so on. And underlying all of this, the implications that the Board of Education's role has been a deliberate one.

It seems to us all of this is beside the point. All of that is spilled milk, milk that cannot be put back into the bottle. What we need now is a fresh, full bottle.

Will these plans under consideration give us that? With intensive work and scrupulous implementation probably, but, in both, we have that "horse and the water" of earlier testimony. So if we may add one, "a pig in thepoke."

Let us not concern ourselves now about the ultimate zoning of Lane -- let us concern ourselves with the educational problems at Lane. Let us fully implement now the Board of Education proposal for that -- also in part incorporated in the coalition plan with strict monitoring and active cooperation of this Court.

When that is accomplished we are confident all parties will be more than willing to discuss intelligently the pupil population at Lane without their present reservations. The pig will be out of the poke.

We do feel, however, that one of theinitial steps should be the removal of those some 600 from Lane. No meaningful changes can be made without some redirection in registration. Also, the composition of the advisory commission and the monitoring force should be of direct concern to this Court.

I think if we have been talking constantly today about upgrading, a sort of horrible word that we seem to use, upgrading the educational programs at Lane and that the school must be "turned around" another horrible expression. However we do know and we have very successfully turned around the school, the Woodrow Wilson Vocational High School inQuee... when nobody and believe me nobody wished to go there, which is now the August Packer school for aviation careers and for which there is a great clamoring to get into.

I hope that all of you including the Court will realize that upgrading and turning around and making a high school that was not successful now a tremendously successful high school is not necessarily integrated. However, we can hope for Lane, integrated or otherwise what we have done for August Packer in Queens and other high schools in the city.

If I am not the last testifier your Honor, may I reiterate the sentiment of all in our gratification for your affording us this opportunity and particularly for your graciousness.

Thank you.

THE COURT: I am afraid I am perhaps somewhat departing from protocol here but let me call Senator Martin Knorr. I should say the senator has just come from Albany today which explains why his name is not on the list.

SENATOR KNORR: As a matter of fact I did not expect to be able to make the hearing today at all. Fortunately things broke in Albany about 10:00 o'clock in the morning and I was able to come down.

I appreciate including me at this time.

Your Honor, since your decision some weeks ago I have been to many many meetings in all areas. I might say that the communities I have heard mentioned here today are within my senate district. I am fortunate to represent the people of those communities and therefore attended practically all of the meetings.

I urged upon the various areas that they get together and that their representatives decide what their attitude was toward the suggested change in

zoning that was made by the Board of Education and if they did not go along with it then to come up with a viable plan if it were possible.

This kind of miracle was achieved. As you can well understand each community has its own separate interests and attitudes. But I must say that the people of the area are the most fair-minded that you can find anywhere certainly within reach of allowed call between here and Albany. They got together and I believe there were more than a score of representatives of all of the areas including the immediate area surrounding Franklin K. Lane Woodhaven and Cypress Hills and they have come up with a plan. I want to say that I am wholeheartedly behind that plan. It is, you know, the people speaking and in modern times this is a very important consideration on thepart of any public official.

The plan which they have proposed accomplishes a certain kind of racial balancing I believe that will be in the interest of quality education. There are two cases of racial balancing; either you can expand the zone lines into areas previously not within the Lane zone or you can reduce the lines in an area in order to achieve racial balancing with a view that this

will improve the educational quality in the school. That is, I believe, what makes their plan a very viable one because if it is put into effect you will eventually have a school that is racially balanced at least to a degree and you will have the people of the area, the neighborhood, the surrounding areas of Franklin K. Lane sending or opting to send their children to Franklin K. Lane.

(Continued on next page.)

I am not clear on the importance of racial balancing but I was informed of this at least by members of the faculty of Franklin K. Lane very recently that actually as Franklin K. Lane became more segregated, if that is the word you wish to use, that the quality of education improved. It is not what we would desire but nevertheless as the school became more segregated the ability to transmit an education to the children of theschool improved. It has been I think or the figures 85-15 for a period of more than two years and prior to that when it was less racially balanced or less segregated if you wish to call it that, it was a school of great problems so that it would seem thatthis theory that racial balancing is that important in creating quality education in a school is perhaps not sustained by what actually happens.

THE COURT: Well, I think that a number of speakers havebeen very careful to separate the two points in terms of talking of improving the quality of the education at Lane and quite separately others have been interested in seeing that it was not a segregated school or it did not become any more segregated school than it had already had become.

I quite agree with you that when you are dealing with the question of whether there is an immediate and direct correlation between the presence of segregation and either improvement or deterioration in educational achievement thatyou cannot connect color and educational achievement. I would suggest as in my April, 1972 memorandum that perhaps income level had a great deal more to do with that than anything else.

SENATOR KNORR: Well, we are agreed. However I was directing my remarks more to the Board of Education than to the bench. There is also a situation I do not think has been highlighted particularly at least not today, namely that perhaps there are in attendance at the school at any given time I am informed some 2200 students out of an enrollment of some 3500's or thereabouts.

THE COURT: I do not know whether that is quite the figure but the profile that we had to work with did enable us to get attendance figures for all of the highschools in the city and my own recollection is that Lane was well down toward one end of the spectrum which say Bronx High School of Science was at the other 99% attendance and 1% truancy and Lane was quite bad,

I think in the order of 43% truancy or something of that sort.

SENATOR KNORR: It is a very high level. I believe this is because students are so far removed from the places where they live. I would like to tell the story that if little Johnny in my home community of Ridgewood plays truant it is inevitable that one of his classmates is going to tell his mother and that ends the truancy of little Johnny.

Now there is no possibility when children are dispersed far from the school that the parents can be sufficiently advised that little Johnny is not attending school at all.

I am not saying that that sometime of the say the students are not on the premises at Lane. However, if they go in under those circumstances they are going into socialize, to create a little excitement and so forth and so on. And this is where you get the effect on that neighborhood where children who are supposedly attending Lane are going around through the neighborhood immediately surrounding the neighborhood of Lane.

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I believe that the administration of Lane has striven mightily to do something about this high level of truancy, but I don't believe that they can ever be successful when students live miles away from home. The parents have no opportunity to get involved with the school. Therefore, I think the most important factor in the proposal of the coalition is that a line be demarked, Pennsylvania Avenue, and also that nothing be done to involve communities that are not already involved in Lane.

There is also, and this has been mentioned quite a bit, from personal observation the private schools, parochial schools are bursting at the seams all throughout the area, certainly immediately surrounding Lane. Obviously, there must be some reason why this occurs and it is because the people in thearea, from personal observation and contact with the school, do not want their children to attend such a school. I believe that if the coalition plan is adopted very soon, or in the forseeable future you will have a change of attitude in the part of thepeople in the immediate surrounding areas.

There is one other thought that I wanted to leave with you: we did have a meeting at Borough President

Manes' invitation, which was presided over by a member of the Board of Education, and the Board's plans were discussed and the unanimous sentiment was in opposition. Then, substantially the plan that is submitted here today by the coalition was discussed and the Queens member of the Board of Education agreed that it was a good plan and a worthwhile plan, but he said he wasn't sure that he would be able to sell it to the rest of the members of the Board. Those are direct quotes, and I believe when the Board of Education itself, having a plan to study now, the coalition plan, that they also will have no objection certainly to the implementation of that type of a plan.

I would like to say to you that I appreciate the fact that you have afforded these many fine people an opportunity to come here to express their opinions.

Thank you.

THE COURT: Thank you, sir.

I don't know if he is still here, if councilman Eugene Mastropierri here?

A VOICE: No your Honor.

THE COURT: Did he go?

A VOICE: He was here during the recess, your Honor.

THE COURT: Do you think he's gone for the day?

A VOICE: Yes.

THE COURT: Apparently he had to run to his councilmatic duties at City Hall, which is the reason that he isn't here. I do not know what his attitude was.

Is Mr. Godelli here?

(No response.)

THE COURT: I expect he is gone too. That is all the regular speakers we have.

I do think that properly Mr. Gopstein now, it is necessary for us to have an evidenciary session, don't you think?

MR. GOPSTEIN: Yes, your Honor.

THE COURT: I was wondering, it would be late to start this evening, although I am willing to, would it be feasible to resume on Monday at either 10:00 o'cloc or 2:00 o'clock?

MR. GOPSTEIN: I will certainly do it at the Court's convenience.

THE COURT: We would only get started on it if we start now, but if you think it is desirable for any reason to start on it now I think we can certainly do it.

MR. GOPSTEIN: I would like to make a few comment

and perhaps refer to what some of the testimony would be.

THE COURT: Of course I should say to you any testimonial hearing is of course open to the public so that you are welcome and invited to return.

MR. GOPSTEIN: I have twenty pages of notes on thirty-five speakers and obviously we are not going to start remembering that at 10:30 somebody said this and at 12:00 o'clock somebody said that, but certainly there are some overall impressions that one has, and I don't view my role here as being here to be in any public relations sense in a position to defend the Board's plan, but in a more technical sense, and it might sound like a strange thing to say, but in a more technical sense this is still a Court hearing where a Board of Education has presented a plan to a Court which it feels complies with the requirements of the Court's order, even though it may disagree with the reasoning and conclusions of the Court.

Those, of course, are two entirely different things, and there are a lot of things said today that -- so I don't come here to represent the Board on matters of policy, they can certainly speak for themselves and their plans speak for itself, and if you

agree or disagree that is everyone's right.

There were certain things said, I think, that come down, first, to factual issues, and when you get this involved in a case like this you realize that no matter how much the facts seem to scream out to you, sometimes people just want to go under their preconceptions.

I will give you a couple of examples and these things did come out at the trial also. Some people said, and I think Judge Dooling corrected this impression, thatthe Board was found to have gerrymandered Lane over the years.

Well, I don't care how many times you say it, it just ain't true.

A lot of things might have gone wrong, in fact, when we came to the trial I remember very distinctly that at the beginning there were intimations by the plaintiffs that one of the reasons that Franklin Lane had changed from a predominantly white school to a predominantly minority school in about ten years was that somehow there had been large sections of Queens that once had been in the Lane zone and were taken away as a result of white pressures and that this would be gerrymandering.

We introduced maps for the last fifteen years and this had never happened. In fact, the only changes in the Lane zone of any consequence were in the western area of Lane where areas were added for a while and then taken away, but when they were taken away in the late 1960's that was an area of predominantly black population, so it was not a question of taking away white areas from the school, it was black areas.

The change which took place is a change all too familiar in New York, a change of neighborhoods. We talked of Woodhaven; we have talked of Cypress Hills. Well, that is a very, very small part of the Lane zone. Even if you take away that yellow part, the bulk of it still is East New York, or whatever that area is. I dont' think I heard a single speaker here today from East New York or who claimed to represent East New York, and that is a pretty big chunk of that area.

So when we talk of interests for the community wants this and the community wants that, there are a lot of communities and when the communities come together and clash they sometimes realize they all feel very, very strongly but in completely opposite directions.

I think if you had had an opportunity to read the mail that Judge Dooling got from Albany, quite an

educational experience. As soon as the decision came down and Judge Dooling was kind enough to send plaintiffs and defendants a copy of all the literature, and it is stacked up about this high now (indicating), and the first group of people who felt they would be zoned into Lane said this was an awful thing, don't let the Board do this to us. Of course, the Board was trying to follow the Court order, but don't let the Board do this, and that and the other thing.

Then the next people that heard that this was happening, they sent in and they got together and said it is a wonderful you have done, Judge, it's time, and make sure the Board does what it should have done years ago.

So both people were criticizing the Board for entirely different reasons. I guess you arepretty good if you can get criticized from people from two directions and both of them think they are not responsive to their needs.

Another issue of fact that was raised today and raised at the trial, the educational quality of Lane and thequestion of whether that is a result, among other things, of insufficient funds.

There was one speaker today who talked about the

fact that this was clearly a result of impoverishment. Trials are tedious things, they are not Perry Mason affairs, they are slow and detailed and you put in a tremendous number of detailed facts that sometimes opens everybody's eyes, and we put in facts that show while there is not enough money for all the things the people want, that is pretty obvious, that is a starting point; the per pupil expenditure in Lane, as broken down by a lot of different entities, is exactly the same, in fact, higher than a lot of the schools in the city.

You might say how is this possible, because I am sure it is a bad school so it must get insufficient services.

Maybe schools have problems for lots of other reasons that money can't remedy. Maybe they need much more money than we have, but it is not a case of insufficient funds. That is another area where the facts do speak for themselves, and I think we have to accept that.

Now, at the trial we tried to present the position -- I had hoped not to try to re-litigate the trial be- because that stage has passed, but certainly at that point part of the evidence we presented in regard to

the history of Lane was trying to show that Lane was not gerrymandered; that it is not really an artifically zoned district even though it might look kind of weird sticking out in this direction and sticking out in that direction; that in fact the other three schools all around it had existed there before Lane came into existence in 1937.

So actually, considering where all the other schools were around it at the time it came into existence, that was a pretty logical place to put Lane.

Another thing we showed that in 1961 or '62 that area of Lane, that mean area had an 80% white population. That has changed. People have moved. East New York had a predominantly white population. It is now predominantly minority.

That doesn't mean that we necessarily would have to prevail on the law and we did not. But I think Judge Dooling's decision is clear in finding that there was no gerrymandering, but the standars as set down by the Supreme Court and by the Federal Courts obviously compelled this Court to find that this was a segregated school and the Board of Education at this point doesn't stop and fight the first battle and then tries to be responsive to what the Court has ordered.

If you read the order of the Court, it is pretty clear thatone of the things that most disturbed the Court, looking at this, was the feeling that the Brooklyn Queens line had somehow been used as an artificial border to prevent going further into Queens and re-zoning. In attempting to be responsive to that concern expressed in the Court's opinion, we then had a plan of the Board which tries to incorporate those areas. It is not a question of saying that the Board does not care about neighborhoods, about community groups, it just takes children and plucks them and plays numbers games, because the Board here just -- in my personal capacity, I have certainly sat in on enough sessions and heard enough discussions to know how anguished some of those discussions are when people come from all different sides.

We have heard a lot of talk about the communities all set on one plan and in fact even Woodhaven and Cypress Hills group support the coalition.

Well, that is interesting becuase in one sense the plaintiffs who are the people who brought the law-suit claim to represent and were considered by the Court to represent all the children in Franklin K. Lane, including the children of Woodhaven, the children of

Cypress Hills and the minority children in the rest of the district.

And the plaintiffs, as far as the rezoning plan, support the plan ifthe Board, the Board's proposal which would rezone those other areas. So right away you wonder, we have had representatives from Woodhaven and representatives from Cypress Hills and yet they might be surprised to find that their own children are members of the class represented by plaintiffs who support the rezoning from the other district.

Each considers himself to be the community, even in fact the very same community. I don't throw these out to show that somebody is obviously right or obviously wrong, but just the complexities are sometimes a lot more than some of the glib answers or criticisms would suggest.

I suppose anybody who wants to win a popularity contest doesn't go and work for a Board of Education. There are a lot easier occupations than that. But if you do work for the Board of Education I guess you have no way of avoiding these terrible problems that confront the city today.

I think people have to be realistic and realize that very often when they say that well, let's achieve

a rezoning plan, but let's not rezone anybody into a place, what they are saying is that, I suppose they don't like the Supreme Court's decisions.

Maybe a lot of people don't like it, but I suppose as long as it is the law that is what Boards do. The Board of Educationdoes not have a policy of specific racial balances. The Board has tried to comply with requirements of the constitution and also the requirement of the State law and in fact when it has failed it has been criticized from all ends. Some of the criticisms you hear are they haven't done enough and the NAACP, which wasn't here today -- you can imagine in which direction its criticism would come about an unresponsive Board, exactly the opposite of many of those heard today.

So these are just some thoughts that I just throw out at you when you talk about all the communities agree. No, the communities don't agree and nobody should delude himself into thinking that they do. I think nobody should delude themselves into thinking that it is not an awfully hard problem for any public official to resolve this.

I suppose if you are a congressman or a state senator and you represent just one particular area

there you don't have too much trouble supporting one particular plan, but if your area fell over a whole variety of zones you might have a problem because some of your constituents would go one way and the others would go the other way.

During the trial, it was very, very clear that the witnesses and everybody else who were from Franklin Lane area thought that somehow the people on theother side were getting away with something, why shouldn't they be in the Lane zone with us.

When we hear these people, their main interest is we have a strong viable community, why are you tearing it apart. Nobody can listen to that and say that that is not a heartfelt kind of consideration. But just like somebody said he wouldn't want to be the judge, I suppose you also really wouldn't want to be the Board of Education if you had to make this decision.

Somebody said that decentralization was an example of why the whole idea is to let community control and somehow the Board of Education, which sits up on top, goes against the idea of community control. Well, we have a lot of law suits in the corporation counsel's office that are brought against community school boards. We now have thirty-two community school boards, and

guess who sues them -- parents associations, individuals, people who say that this community school board is not responsive to our needs.

So I suppose they would want to break it down even further and have a community school board for each block. They say our community is 62% minority, and guess what our elected school board is -- five to four, white. How could it possibly represent our board? This is what we have in the lower East Side, Louis Fuentes, that problem.

I suppose the only thing that everybody on all sides is sure of, first, that they are right and, second, that they knew who the community is. When you see all these factions fighting together you either run away or try to come up with a solution that meets both legal requirements, and I suppose educational and humane requirements.

I would like to get to one very specific thing about the plan. Quite a few of the groups stressed one point here and that is what they felt is the need for an implementation by SEptember, 1974; the idea that we shouldn't delay was expressed by many speakers.

As you all know, one of the points in the Board's plan under Plan A or B, we would not have the rezoning

in September 1974. That is not a delaying tactic. I suppose some people would say that there is no way that you can convince them otherwise, but there are very good, sound reasons for it, policy reasons, educational reasons and also the very rock-bottom administrative reasons why that can't be done.

The one witness that we do have here, Mr. Wolner, who is the superintendent of high schools for Queens, would testify to some of the reasons, the very detailed process that goes into it when you try to reassign children who would have gone to one school and now go to another.

I bring you back again to what some of the speakers said. They said, on the one hand, that their own children should go to the school that is three and four and five blocks away, that is the coalition plan, yet the coalition says, but immediately we have to cut away that area of Franklin Lane. Who attends that area of Franklin Lane, and in the western area what would happen? Well, those are about five hundred, six hundred minority children, and what would happen to them? The coalition I see supports a plan whereby they would go to the eleven option schools, because they obviously feel that is a good option. You know where

those eleven options schools are? None of them are in a neighborhood of those children.

In order to provide those black and Puerto Rican children with an integrated education, those schools are in Sheepshead Bay, Thomas Edison; Midwood, schools like that. You know how far you have to travel? You travel quite a bit.

When you have travelling like this you very often hear from minority groups that the burden of integration falls on black people, which may be a legitimate concern.

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CONTINUED BY MR. GOPSTEIN:

So what would you do, would you take those black children and put them in the nearby school, 95% black and send them from a school 80% black to a 90% black.

These are problems if you are going to say these children are, all children are entitled to go to school next to where they live and at the same time receive an integrated education. You have to see where those interests lie. The very real problem that you would haveif you took six hundred students in August, let us say a Court decision came down promptly in a week and tried to take 600 students who would have to exercise an option, in that short period of time, and those schools were in Brooklyn, Queens, and to have to find new teachers, because the teachers have been assigned to the current population, you are doing this at a time when schools are closed. What this testimony would show is among other services you would be depriving these children, these minority children of this decision and we would show in the open admission program existing in the Board of Education minority students are given an option to attend schools and when the Board gives them those options they are giving that in March or February and a long process of guidance

is begun. You are taking minority parents and telling them I want you to take an option to a more integrated school further away that you might not be aware of. When you have eleven schools, if I ask you to choose from those eleven schools I wonder how many could make an intelligent choice to be able to see if the choice is right. This is what the process of the Board of Education tries to do. It starts the process in Queens in January or February under guidance counsellor is in the Junior High School and they begin a program initiating the children and their parents so they know what they are all about and the parents can come in and talk to the guidance counsellors.

The Senior High Schools are alerted to have programs and they can go there and see it. They have open house and four rooms and guidance people often come to the Junior High Schools. You try to do something like that in August when schools are closed and guidance people are like everybody else, away, you would eliminating that process.

This is the real problem why it is impossible to initiate such a massive option program at this time.

In other situations you offer a choice and if they don't want that choice they have the home school.

Over here under this new plan there is no new home plan for these children and you have to make sure all these 600 parents have to exercise their choice as intelligently as they possibly can.

How do you reach the staff. I don't want to give the impression that administrative problems is the answer and you are talking about doing something in three weeks and that is kind of difficult. I could giveyou an example of what happened in Mark Twain.

This is a case where Judge Weinstein acted in the utmost of dispatch in the Circuit Court upheld him in delaying the implementation by sixteen months. What happened in Mark Twain, you have all read about that, Judge Weinstein issued an opinion on January 28, 1974 finding Mark Twain was segregated as it presently existed and asked that plans be submitted on both sides by March 1, to be placed in operation by September of '74, which is what we are talking about.

Well, March 1, we submittedplans and we held the hearings on March 5th, and it became clear how complex this problem was .

On April 1, Judge Weinstein issued a second opinion which was postponed, postponed segregation at

Mark Twain until September of '75 because he said educational problems are so complex and in any successful integration you need clear preparation to make it acceptable and viable.

The plaintiff said we won the war and now we are losing everything. They went to the Court of Appeals and the Court of Appeals upheld Judge Weinstein knowing full well that this was put over to September of '75.

A report of a master appointed by the Court submitted to the Court on July 15th, was given and we had further hearings and on July 26th, last week Judge Weinstein issued his final decision in Mark Twain. What he said which included culmination of schools, and what was to go into effect will go into effect in 1975. This type of schedule is not only unusual but very common.

I suppose if we had the parents of those children in this courtroom and expressed the views of their community, I could understand the views that they would express.

THE COURT: I think I did have here a letter from Assemblywoman Rosemary Gunning and I won't read the whole of the letter but it is dated July 29th, and it is one

that supports the coalition plan. She says I support completely the community approved plan of community groups effected. I don'tthink there is any identification on that, but it is clear what she means.

I think that is about all we can accomplish today. What do you think about reconvening at 10:00 o'clock on Monday? Would this be possible?

MR. GOPSTEIN: I can be here at 11:00.

THE COURT: All right, make it 11:30.

I would like to say here I think that the coalition plan, if you could attempt to sum it up in a word would say that there is enough potential school population in the existing Franklin K. Lane district less the part of it that is west of Pennsylvania Avenue to give you all the school you want if the programs offered in the school are improved to the point in which the people in the neighborhood will be satisfied, that it gives them a general and genuine local high school. There are specific and other considerations involved. I think one of the things we don't have today, one of our speakers, the only one who referred to it, referred to a number was Mr. Durizio who gave us his estimate of the number of children potentially who could be regarded as potential attendants in the F. K. L. school in addition to those who now attend.

Things like that are things we would like to explore on Monday to see if there is anyway to deal with those numbers.

I was surprised about what was said about children going from the Woodhaven area to Franklin K. Lane. I realized there would be a transportation problem and that is because you see the cemetery there and there aren't public transportation vehicles across from cemeteries. We have to take that into account.

To the extent it is stating that children are asked to substitute for a short walk to a satisfactory school a long bus ride to a school far out of their neighborhood, that is the point and if you will look at the Franklin K. Lane zone as outlined in red there which was its former zone, that the school is almost at the edge of its former zone, so that in no real sense was it a neighborhood school. Every school is in a neighborhood but it was a school and is now a school in its existing zone. Their attendance is by public transportation from all over except the area immediately around it. We are told that is the one area in which it misses most of its population.

That is a good part of the Franklin K. Lane problem. I suppose in a small way it is part of the

much deeper problem of urban living in our city which those of us who are born and brought up here are just not going to leave and yet which changes all around us. I think Franklin K. Lane was so situated to give us that spectacular item but I think I can tell you, I went to Boys' High School and when I went there there was just one black classmate of mine named Campbell and today Boys High School is almost completely black and Spanish speaking. AT the time I went there it was part of a neighborhood that was I suppose what we call middle, middle-class neighborhood and today large parts are becoming mainly middle, middle-class neighborhood but black middle, middle-class neighborhoods, and they are increasing in importance as the black people slowly begin to win some economic recognition and have stable employement and the opportunities extended to them.

To that extent that will change the schools and be cured to other things and it is something that we don't know and which perhaps the Board of Education is a lot more learned than we are. I think there is one thing we have to recognize and that is that we mustn't seek to impose onthe schools our children are going to our idea drawn from our own school experience of what we think the school should be for the child of today.

Their schools are different. I don't think we want to deal with that information and the Board of Education in submitting what it has, the golden idea of education today we have to consider. We turned our colleges upside down from top to bottom all on the question of children not wanting to go to colleges and high schools that we found so wonderful. They wanted something brought down to them much closer in relationship to the life they sensed and they were going to have to live. We have to realize the school today has to be a school that people live in the world of today and in this city of today, so it is a multivaried problem and we cannot always be confident that we know the answer by looking into our own hearts and recollections. I will see you all at 11:30 on Monday.

* * *

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

DE FELICE, et al.,

Plaintiffs,

-against-

BOARD OF EDUCATION, et al.,

Defendants.

----------x

71-C-502

United States Courthouse
Brooklyn, New York

August 5, 1974

B e f o r e :

HONORABLE JOHN F. DOOLING, JR., U.S.D.J.

HENRI LEGENDRE
ACTING OFFICIAL COURT REPORTER

Appearances:

MORTIMER TODEL, ESQ.
Attorney for Plaintiffs

DORON GOPSTEIN, ESQ.
Attorney for Defendants

Lhb

THE COURT: All right, gentlemen. Do you wish to present your first witness now?

MR. GOPSTEIN: Yes, your Honor.

A B R A H A M W I L N E R , having been first duly sworn by the Clerk of the Court, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GOPSTEIN:

Q Mr. Wilner, could you state your present position with the Board of Education.

A I am the High School Superintendent in the Division of High Schools assigned to Queens High Schools.

Q And can you tell us briefly your prior background with the Board of Education?

A Yes, I have been a superintendent for ten years; five of those years have been in supervision of the Queens high schools. Five years prior to that I was an Assistant Superintendent in the Division of Personnel; prior to that, principal of a high school, principal of a junior high school; chairman of a department in a high school and a teacher.

Q And I presume you are generally familiar with the procedure by which students are assigned from the junior high school or intermediate school that they graduate to the senior high school.

A I am.

Q You have been here, and you are familiar with it generally, with the proposal of the Board of Education for the rezoning of Franklin K. Lane High School?

A I am.

Q Now, you have heard that part of that plan involves the rezoning of the western area of Franklin K. Lane into certain other optional traces, that you are familiar with?

A Yes.

Q Have you had experience in the operation of a similar open admissions program in the Queens high school?

A I have.

Q What is the name of that program in Queens so that we get the name correct?

A In Queens in the Southeastern portion of the borough, there is an optional enclave area from which students are assigned to eight high schools in the Borough of Queens on an optional admission basis for the purpose of integration and utilization of school plan.

MR. GOPSTEIN: Mark this for Identification.

THE CLERK: Document marked for Identification as Defendant's Exhibit A.

Q Mr. Wilner, I have given you a document. It is entitled Choice of Admissions Programs, Queens High School,

1974-'75. Can you explain generally what this memorandum is?

A This is a memorandum to Community School Board Chairmen, to Community Superintendent in the Borough of Queens, to the Principals of academic high schools in the Borough of Queens and to principals of junior high schools and intermediate schools in the Borough of Queens. The purpose is to establish the procedure on the basis of which children in an area which I have referred to earlier as the enclave area in the southeast portion of the borough are given a choice of admissions amongs eight high schools in the Borough of Queens.

Q I ask you to turn to page 2 of the document. There is a chronology listed here for certain procedures that are to be taken in connection with this program. When is the first date that appears here on this memorandum?

A The first date is Friday, January 25, 1974.

Q And the procedure that is described here takes place -- which most of the school year generally begins in January and goes until when?

A Goes until sometime the end of April, beginning of May.

Q Now, I direct your attention to the front of this memorandum, to Item No. 3, 3.1, which reads as follows:

"Provision should be made immediately by the guidance

staff in eligible junior high schools and intermediate schools for the choice of admissions program with pupils and parents."

Can you explain to us what type of provisions this refers to? What type of role the guidance staff plays in the type of program.

A The guidance staff in each intermediate and junior high school is expected to conduct group guidance sessions, assembly programs with students, visitational sessions with parents and guardians to provide information necessary for students and their families to make the choices amongst the eight schools that are offered to them.

Q Do the guidance counselors sometimes meet with the students themselves?

A Yes. I indicated that the group guidance sessions are held in many intermediate and junior high schools. Their classes are so designated. My own experience as principal of a junior high school, every class in the ninth year preparatory to making the options of schools that were offered to them would be met in group guidance sessions with guidance counselors and grade advisors. In addition to that, parents are called in -- day meetings -- I think to provide for parents the information about the schools from amongst which the choices will be made.

Q I direct your attention to page 2 of the form

under calendar -- item No. 2, which states under Monday, February 4, 1974. "Guidance counselors will distribute messages to parents," and application forms to all eligible students.

MR. GOPSTEIN: I would like to mark this for Identification.

THE CLERK: So marked for Identification as Defendant's Exhibit B.

Q Could you identify this document, please.

A This document is a message to parents and it lists the schools from amongst which the students will make their selection and informs the parents of the program, choice of admission program has been instituted, refers to the map which describes the zone affected by the choice of admissions program and it advises parents as to the need to make the choices, and some of the bases on which choices are to be made. It refers to the fact that the guidance counselor at the present school -- intermediate or junior high school is available for assistance to the parent and the students to making the choices.

Q And this paragraph which I'll just read states as follows:

"We suggest that you consider these selections with care. Guidance counsel as your child's present school is

available to provide assistance to you."

From your own experience, do parents seek out this assistance in various situations?

A Yes, as I indicated earlier, there are sessions made available by day and by evening for parents to visit the school, confer with guidance counselors in groups and in individual meetings.

Q Could such a program be undertaken in August, programs of guidance assistance of this type?

THE COURT: This August?

MR. GOPSTEIN: This August.

Maybe I would ask the most obvious question: Are the junior high schools and intermediate schools open right now?

THE WITNESS: No. Nor are the high schools.

Q So none of the staff that would normally perform these functions are presently in the school?

A That is so.

Q Now, there is, I believe, on the first form, the memorandum, an additional item on page 2, Item 3.4, which states that the guidance counselor is responsible for completeness and correctness of all applications.

Could you describe for us some of the functions that are implied by that paragraph, that function of the guidance

counselor?

A Yes, the implications there are -- and more than just implications -- we make every effort to follow through on this; that information has been provided that the parent has seen the application, has been made aware of the options available; has had some conference with respect to the options; has made the choices and has made the choice and has signed the application. The completeness would include the choice of school, the signature by the student and the parent, and then a signature by the guidance counselor that all of the steps have been followed through.

Q Now, you have heard now testimony references on Friday in the hearing to the problem in Franklin K. Lane with a high truancy rate. If we were implementing that part of the plan that would rezone the western part of Franklin K. Lane and the five or six hundred students that come from there, would the attendance problems that these students face pose an additional burden in trying to complete these forms?

A Yes. The problems that a guidance service must meet, must face in attempting to meet the needs of a population like the one you have just described are fairly apparent. Obviously a length of time must be established on the basis of which every effort can be made to get to communicate with the student and the families, parents

responsible for guidance of those students to complete the necessary applications.

Obviously, in a situation where truancy is extensive this problem becomes much more difficult. The length of time must be extended so that you can get to the children. Telephones must be used, communication by mail must be followed through and indeed the attendance officer assigned to the various schools must be utilized very frequently in making home visits to see to it that contacts are made and applications are completed. This is a difficult and involved process even with the best kind of student body.

With the kind of student body where truancy is extended the problem becomes much more difficult. There is also an additional factor that results from the nature of this open admissions program, namely, that all students must make a choice here. There is no home room area, there is no zone school to which the children could in the absence of any options expressed ultimately be assigned. If there were a home school, the guidance counselor, intermediate or junior high school has a resource.

If the family does not express an option the child can then be processed or the application can be processed for forwarding to a home or zone school.

In the Queens open admissions program there is no home

school and there is a long and detailed process involved in getting to every one of the children eligible for promotion to high school.

Q Now, this memorandum which you have been looking at is also addressed, not only to the junior high school that provides certain guidance counselors, but to principals of academic high schools. What kind of functions do the high schools which the children potentially will go to, what kind of function do they perform in this process?

A All of the high schools within the jurisdiction of the Queens high school office conduct what we call the open house arrangement, where invitations are sent to all feeder schools, all potential feeder schools to invite counselors, parents, teachers, students to visit the school at certain dates and times, to look in on classes, to attend assembly programs and the like, similarly. The schools send counselors, grade advisors and visitors from the school, that is, the high schools, to visit and attend guidance sessions, assemblies, et cetera, in the feeder schools. Also, guidance personnel very frequently attend parent association meetings in the feeder schools to provide information about the options and the offerings in the different high schools.

There is a kind of two-way process here, visitors invited by the lower schools and visits made by the high

school to the lower schools to allow that kind of information.

Q And the physical plan of the school itself is available for inspection?

A It certainly is. There are visits made to classes in operation, to assemblies, sometimes to performances and productions, dramatic productions, music; visitation to feeder schools to attend artwork and other work carried on in the school, and there are communications in the publication of the various high schools sent to the lower schools and the feeder schools: the year book, the literary, the science and magazines which are produced in the high schools are sent down to the feeder school to provide a basis for guidance service.

Q Any parent in August that would want to visit any of these 11 schools obviously would not be able to find a school in operation during the summertime.

A Among the 11 schools, amongst the Queens high schools, children included in the 11 schools, none of the schools has a summer school program.

Q Now, the schools that were referred to last Friday, the 11 schools that are here, some in Brooklyn, some in Queens, are there differences between high schools?

A Yes, there are differences in plants, in facilities that are available in plants in programs, means

and measures of programming and in studies that are offered in the schools -- programs that are offered in the schools.

There is, of course, a fundamental basis for programs, that is, there are diploma requirements which all schools must meet but within our optional offerings in the high schools developed within the last five years, schools meet with the diploma requirement in varied ways, and there are options and offerings in some schools that are not available in other schools. Some schools are much more varied than others, some are more traditional and conservative than others. We in the high school office have encouraged this in order to provide the widest kind of offerings that we can in the high schools.

Q So a parent who wants to intelligently and actively exercise his or her options would really have a job of looking into schools that would provide different curriculum and different opportunities for their child?

A Yes.

Q Is it not true that the 11 schools, the number 11 is a rather high number to present to a parent as the number among which to make a choice, compared to other admission programs?

A Yes. We in the past have considered the open admissions program for the Queens schools which I have

referred to earlier offering eight high schools of choice as a very extensive choice of option. This offering of 11 schools, of course, extend it even further, moreover, and among the 11 schools there are two specialized schools, the two vocational high schools, Grady Vocational High School and Thomas Edison Vocational and a technical high school.

Q In the normal school calendar year, forgetting for a second the particular program we are talking about now; if a student was assigned to a high school his records would go to a high school -- would that high school at a certain point prior to the beginning of the academic year make an attempt in some way to visualize his program in that particular high school or to at least ask him for his preferences?

A Yes. This is one of the functions of the guidance counselor in the lower schools, expressed through an option card or registration card or a primary program card. There are various designations for the form or forms that are used, sent on to the high school on the basis of which the high school program committee will establish the sequence of classes, the time, period in the day and the room to which the student would be assigned. The options that are involved are options that would involve choice of language, remedial needs that have to be met, possible options with respect to technical or shop classes that might be available in one

high school and not available in another high school. The needs of a child with respect to his foreign language background.

We have an increasingly demanding need on the part of a great many students for special programs to meet the needs of a foreign language speaking population.

(Continued on next page.)

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Q And the options available at different schools might differ?

A Yes.

Q And this whole process formally begins approximately when?

A Again, if I may based part of the response to this on my own experience as the principal of a junior high school.

I would suggest that this process ought to begin fairly early in the 8th or 9th year of a student, depending on whether it's intermediate or junior high school. Even sometime before that January date, which we used as the beginning date for the optional admissions program in Queens, when we would have the feeder schools to provide group guidance sessions, to provide informational materials to students, to provide discussion opportunities to students and their parents to determine some basis for making the choices that will be made available to them.

Q Now, if a rezoning along the lines being suggested was to take effect in September of this year, would there also have to be, or would there be a problem regarding the staffing needs of the school involved?

A Yes.

The students in the zone to which you refer

have already established the choices of high schools. The high schools affected have received certainly numbers that will affect their organization for the September '74 term; and teacher assignment and teacher organizations have already been established.

If the number changed especially in marked numbers -- we are affecting some 600 students, obviously they will have to be staff changes and staff shifts to meet the needs represented by the moving of children from school to school.

Q And teachers have already been assigned or they formerly are assigned at a earlier point than August?

A The appointments, if they have not already been sent to the school, they are in process now and will be sent out within this week to the schools which have been established. The need for teachers, the need for transfer of teachers, transfers have been made, vacancies have been established and the filling of those vacancies are in process.

Q Would there be additional problems in trying to implement such a program in three weeks or so that would affect children who attend parochial schools and who graduated from the elementary schools this last January? Would there be any problems in trying to reach them and make

them aware of their options?

A Graduated from the parochial this last June?

Q This last June.

A Yes, this circular, using the example of the Queens choice of admission program, this circular was in addition to being sent to the proper schools was sent to lower schools, the parochial local lower schools for the most part, 8th grade schools, parochial schools, both Portestant, Catholic and Jewish parochial schools with the information to them, asking them for the same choice of admission.

Obviously we would have to make the same approach to the children living within the residential area described in the zone who have been attending parochial schools.

Some of them are located within that geographical location and many are located in other than that geographic area. We would have to explore all of the youngsters involved, and they would have to be given the same kind of orientation preparation and indoctrination before they made their choices.

Q Would it be correct to state generally then that this whole process that you have described of trying to get children who are about to exercise options and to

do so intelligently, that this process even when the schools are open -- sending and receiving schools take quite a few months during the academic year.

It's a long elaborate process and when done properly calls for a great deal of communication between and amongst student teachers, day guidance counsellors, administration, etc.

Q Would you also conclude that to try to compress this process into two or three weeks, when all the schools are closed might well present insurmountable problems?

MR. TODEL: I object to the form of the question.

THE COURT: Let him explain what the problems are.

A The best way that I know how to respond to that, I am a superintendent in charge of a Queens high school, I am very proud of my own administrative prowess, and the administrative prowess of the principal and administrative staff in the schools to whom I am responsible.

I could regard any problem as insurmountable. However, it can be done on paper moving youngsters around as draughts checkers and so on, whether it can be done with proper conditioning, education, guidance and information on the basis of which intelligent and hopefully

rewarding choices can be made is another question entirely.

I don't think tt can be done based on my total experience of 40 years in this business, that it can be done in the time available to us now.

MR. GOPSTEIN: Thank you. I have no further questions.

CROSS-EXAMINATION

BY MR. TODEL:

Q Mr. Wilner, a moment ago you said in your experience as an educator over 40 years, there is no problem that is insurmountable; is that correct?

A I said that.

Q By the way, Mr. Wilner, you stated that you were a principal of a high school. Where were you a principal of a high school?

A Alexander Hamilton?

Q In Brooklyn?

A Yes.

Q And you were a principal of a junior high school?

A Yes.

Q And where was that located?

A Junior High School Fredrick Douglas, 139 in Manhattan, 140th Street and Lenox.

Q How long were you a principal?

A I've been a superintendent for ten years, that goes back to '64. I was principal at Alexander Hamilton for three years and for seven years before that at Fredrick Douglas Junior High School.

Q Mr. Wilner, in Exhibit A which the corporation counsel introduced or marked for identification, it draws out a chronological outline when this process begins; is that correct?

A Yes, on page 2 there is a calendar.

Q And according to this calendar beginning sometime about January 25, 1974?

A Item number 1 is Friday January 25, 1974.

Q And this occurs during the course of a regular school year of a high school or of a junior school, or of an intermediate school.

A That's the date, January 25 is in the course of a school year.

Q In other words teachers are teaching classes, guidance workers are guiding students, principals have all the normal activities which are fully required from an 8 O'clock to about a 3:00 or 3:30 day; is that correct?

A Yes.

Q AS of August 5, 1974, the school is not in

operation; is that correct?

A That is correct.

Q If I am not mistaken, aren't program committees, many of the high schools begin their operation about the second week of August?

A Program Committees will be at work in the high schools normally in the last week in August.

Q Normally, however, the Board of Education has the names and addresses of school personnel and can make attempts to locate school personnel in an emergency situation, does it not?

A Yes.

Q In other words nothing is occurring in the school as of August 5, 1974, which requires a 100 or 200 involved in the school system to be actually working in a school system?

A In general, without knowing just what it is that you are referring to, I would have to say yes.

Although on my way in to to the Court this morning, I dropped off at my office -- and I'm on vacation, and I -- my office is extremely busy.

Q The high schools are not extremely busy places?

A No.

Q And the junior high schools are not in opperation?

A Thats correct.

Q And the intermediate schools are not in operation today?

A That's correct.

Q All guidance workers or teachers and program people who are involved in the junior high schools, intermediate schools and high schools are not working today, or 95 per cent of them?

A I couldn't answer to whether they are working or whether they are not.

Q Working within the school system, the public school system of the City of New York, I'm referring to.

A I would hazzard the answer that that is correct, with the exception of a very large summer school program which is presently in operation.

Q Is there a summer school program in operation in the Forest Hills High School?

A No sir.

Q In the NewTown High School?

A No.

Q In William C. Bryant High School?

A Yes.

Q Grover Cleveland High School?

A No.

Q Those high schools which are located in Queens -- would you know for example, high schools in Brooklyn, James Madison, Sheeps Head Bay?

A No summer school.

Q Utrich?

A Yes.

Q Franklin D. Roosevelt?

A No.

Q William Grady?

A No.

Q Thomas Edison?

A No.

Q I see only four schools that I mentioned do have a summer program which is in operation today.

Now, you have mentioned almost ideal type of setup of children choosing optional schools in an optional school program, the guidance counsellor or a group guidance; is that correct?

A I described a program, but I would hesitate to agree with you on the connotation of the term "ideal" of which you referred to them.

Terming it ideal would appear from my point

of view to indicate that this is something which exist in a text book but doesn't exist in reality, and I submit it does exist in reality.

Q In IS 55 or 271, you are familiar with these schools?

A I am familiar with them knowing that they exist in Brooklyn, but I am not responsible to them nor have I visited them.

Q In the program after your Exhibit A is sent to all the various schools involved, you say the junior high schools or intermediate schools will then call a meeting of the parents; right, of the children involved?

A Again, if you recall I based my response to that on my own experience as a junior high school principal. As a principal of a junior high school I saw to it that this process of information to parents and to students began as early as November in he year in which the student was in the 9th year in my junior high school.

Q When you were at Fredrick Douglas Junior High School -- that must have been 1960 or earlier?

A Began 1953.

Q Was there an optional program at that time?

A The situation --

Q Yes or no?

A I just can't be answered yes or no.

In the Manhattan high schools at that time there were options for admissions. For example, the children at -- it was an all boys junior high school. The children graduated from Fredrick Douglas had options first among the specialized high schools, they took the examinations for Bronx High School of Science, Brooklyn Tech, Stuyvesant High School, Music and Art and so on; 20 other specialized high schools, then they had a choice amongst -- I'll try to recall.

This goes back some time. I have a good memory -- a choice between DeWitt Clinton High School, at that time the High Schools of Commerce, Floral Park High School and Hughes High School, and they had to make the choice amongst those schools, from amongst those schools.

We set programs up on the basis of which we did provide information and education for parents and students to help them make their choices.

That's why I couldn't answer it yes or no.

Q And according to the procedure in the memorandum dated -- Exhibit A -- dated 1974-'75, was it required that each child have a personal individualized interview with a guidance counselor.

A That's not included in the memorandum,

obviously as the superintendent in charge of high schools I could not mandate this in schools not under my jurisdiction.

Q Would you say that most schools have an assembly program where there would be discussions about the various high schools?

A Yes, but I indicated earlier too, in addition to assembly programs, there are, for a lack of a better term, what we have designated as group guidance classes, which are actually programmed and junior high schools, so that students may receive information in the 7th and 8th grade in a junior high school.

These group guidance classes consist of a variety of guidance procedures. However, in the last vear the intermediate or -- the group guidance class gives its major attention to the selection of high schools.

Q What does that mean, major selection?

A Group guidance class again, based upon my experience as a principal of junior high schools would meet once a week.

Q Are you saying that there is a group guidance once a week in IS 271?

A I couldn't answer that. I base my answer on --

Q Your experience as a superintendent in charge

of high schools to the procedures that are followed in the junior high school, say for example, in the southeastern part of Queens?

A To the best of my knowledge, junior high schools and intermediate schools and the southeastern part of Queens, the largest number of schools are intermediate schools.

To the best of my knowledge, based on my knowledge of those schools, there are such group guidance classes continuing as I knew them when I was a junior high school principal.

Q There is a group guidance class once a week and conducted by a guidance worker or guidance counsellor?

A Again, I cannot technically answer it by saying its a guidance counsellor. It's a person designated by the guidance staff, teachers assigned as grade advisors, deans, attendance officers and so on.

Q But actually of your own knowledge, you don't know whether or not any junior high school or intermediate schools that once this particular exhibit is sent to the high schools each and every week for one hour, each student in the 9th grade is given a discussion with reference to various schools to be picked and chosen in an optional program.

Can you say that really?

A No, I can't.

Q You mentioned some information is given to parent associations; is that correct?

A Yes.

Q In your years of experience with parent associations, as a principal of a junior high school, do they have attendance of 100, 200, 250 parents attending on a regular basis?

A Based on my experience both as a principal and as a superintendent, attendance at parents associations leaves a good deal to be desired.

However, every responsible principal makes every effort to get communications out to the parents in the form of circulars sent home with the children and also mailing to parents and in the periodic bulletins sent out to parents.

Most schools do have a kind of newsletter that goes out to parents at a regular -- at regular intervals. At the time when high school choices are made this becomes a kind of a major part of the newsletter that is sent out.

Q And you know from your own knowledge, especially with reference to the southeastern part of Queens,

whether or not in any newsletters that went out that the optional program played a major part in the newsletters that went out, do you know that of your own knowledge?

A No.

Q How many children were involved in the optional program that you described in the southeastern part of Queens?

A For September 1974, we would be placing in the 8th schools somewhere just short of 2,000 students.

Q And do you feel that there is any real problems with reference to placing approximately 600 students when there is no school program in existence to interfere with the efforts of bringing in a number of teachers and guidance workers to work closely with these students for the next three weeks or four weeks, to have these children assigned on an optional basis to the 11 schools which is part of the proposed plan of the Board of Education?

Do you see any real problem in that?

A Yes, I do see a real problem. It can be done on paper.

Q I am not asking whether it can be done on paper. Can you specifically state that if the Board of Education cannot obtain the assistance of a number of guidance workers when there is no school program in existence,

and where, for example, Franklin K. Lane now has the 600 children, their whole program involved in reference to the program set up in Franklin K. Lane for these 600 children, where they can have guidance workers and teachers going over these programs, call in these students and give them a really individualized attention in terms of seeing what the options for these students are.

Do you feel that this is an insurmountable problem for the Board of Education?

A I indicated earlier I can't regard it as insurmountable.

Q What are the problems?

A Let me point out what the problems are. First of all we don't have all of the 600 applications at Franklin K. Lane.

Those children involved in that zone west of Pennsylvania Avenue to which we are referring have already made options. They have made choices of schools other than Franklin K. Lane.

They will now have to make other choices to include the total number of 600. I don't know the figures. I am not responsible for Franklin K. Lane or its organization, administration, and I don't know the actual number of children involved that have already had their applications

sent to the -- to Lane.

However, the total number is not 600. It's substantially less than that. The number would include -- the number would include those who have opted to some of the open admissions schools, some that have opted to vocational high schools, some would have possibly opted to other schools, that's one aspect.

A second aspect of it is, the matter referred to earlier, when I spoke of the difficulty in communicating with a population where there is a very expensive truancy problem. That's something that takes up time and a great deal of energy and effort to overcome, to get that kind of student body, and their parents, so that we can get the options properly expressed.

Third, the total number of young people, 600 to which you refer, have to be given other kinds of options. They must be given the right to take an examination for a specialized high school, for example.

THE COURT: Hasn't all that been done in connection with their regular graduation?

THE WITNESS: Probably, almost certainly has been done with one reservation, if I may.

When a given set of circumstances are opened to a young person who is about to make the choice of

high school, he makes the choice of high school on the basis of that set of circumstances.

THE COURT: You mean with Lane as the alternative?

THE WITNESS: With Lane as the alternative. He might not have made the option to go to another high school.

THE COURT: If he had a -- Cleveland as a possible alternative --

THE WITNESS: He might have made a specialized high school.

Q Like Bronx School of Science?

A He might have.

(Cont'd on next page.)

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Q You know as a Queens superintendent of high schools to apply to Bronx High School, Stuyvesant High School, Brooklyn Tech, that the children must take an examination, either the end of the year 1973 --

A That's the point I am making. That's exactly the point I'm making. If the set of circumstances on the basis of which a youngster states "I will not take the examination for Tech, say, or for Westinghouse Vocational High School, period, I will not take that examination for that high school, because I have another high school which I can chose, in this case Lane."

Q In other words, what you are saying is, from your experience as an educator in the school district for 40 years, you would say that a child who had an opportunity of going to Brooklyn Tech or Bronx High school or Music and Arts or Stuyvesant High School would opt out to go to Lane?

THE COURT: He didn't say that. What he did say was that a child might have elected not to try for a particular specialized school if, for example, he lived at the extreme east end of the yellow area there.

Since he knew he could go to Lane very conveniently. Now, if he realizes that he has to

go to a more distant school then he might be disposed to look again at the prospect of going to Westinghouse or someone of those schools. Is that your point?

THE WITNESS: That is my point.

THE COURT: But if he thought he had a real chance to get into Tech or Bronx High school he would also explore that.

THE WITNESS: But when we speak of a specialized high school for which entrance examinations are given, and for which applications are anticipated much earlier than for the nonspecialized high school, we must include not only the four top schools, Bronx Science, Brooklyn Tech, Music and Art, but 20 some odd other schools do have specialized courses, the schools of which I was a principal, which is located in Bedford Stuyvesant on Albany Avenue, one block or so south of Fulton Street, south of Atlantic Avenue, obviously this is a school which a youngster might opt to take an examination for if he faced the fact that he might have to go to Lafayette, to Forest Hills or to William Cullen Bryant, which is very remote.

Q Mr. Wilner, say for example in the Queens High School set up like Forest Hills High School, the

have their own zone and some children could opt out to --

A They don't have a home school. That enclave area includes a large geographic area for which there is no designated zone high school.

I indicate that the purpose for this was two-fold, one for integration purposes and two for the utilization of schools plan.

THE COURT: Which one is that?

What school?

THE WITNESS: Forest Hills. The 8th high school in the choice of admissions program in the Queens situation. I could read the names of the schools off; Newtown High School --

THE COURT: We have them in the plan.

Q In other words, actually Forest Hills High School is a non-zone school?

A It's a zone school but the children in the unzoned area -- this conclave area has that as one of their eight options.

Q Now, for example, in the Forest Hills --

THE COURT: What is the enclave area?

THE WITNESS: In the southeastern part of the borough.

THE COURT: Of Queens?

THE WITNESS: Including areas, neighborhoods like St. Albans, Baisely Park, --

THE COURT: They have a large migrant population.

THE WITNESS: Not really. That population in that part of the borough I think scarsely is to be designated as a migrant --

THE COURT: You say there are thousands in that enclave.

THE WITNESS: 2,000 students living in that area would be zoned into the eight other schools.

Speaking of them being migrant, from that point of view; yes.

THE COURT: The ones that have to travel a considerable distance to school?

THE WITNESS: Yes.

THE COURT: And you say a great many of them go to Forest Hills?

THE WITNESS: I am trying to recall the numbers that are involved. Some 300 would be designated for Forest Hills; 200, 300 would be going to Forest Hills as their choice as the eight available to them.

THE COURT: Was that the most or less remote?

THE WITNESS: Somewhere in the middle.

May I point out too, when we speak of an optional or choice of admissions program, we make every effort in the Queens situation to give every youngster as close to his first choice as possible, and we define that we were able to give 92 plus per cent of the youngsters applying their first choice of high schools.

Q When a child in southeastern Queens would go to Bayside, would that be quite a trip for him?

A Yes.

Q Or to the John Paul High School?

A John Paul doesn't represent a long trip as Bayside or Flushing, but it's quite a trip for some people.

They may make their choices on the basis of the travel problem, distances, transportation facilities, and so forth.

Q And do they have to travel by bus and subway?

A In some cases, yes.

Q When I was asking questions on Forest Hills High School in September of 1974, when school opens, doesn't the Forest Hills High School have all the applications of the children who are going to Forest Hills High School or at least 90 per cent of them?

A I would expect they would have all.

Q All of them? In other words, [illegible] they would have all the applications of the children from the southeastern part of Queens that opted out to Forest Hills, and they would have all the applications of the children who are within the Forest Hills zone?

A That is correct.

Q Would you then say that this is a situation which would occur in most high schools? The beginning of the term they would have all the applications of the children who applied and who will start the September term; is that correct?

A Again, let me modify. You spoke of Forest Hills and I used the term they would have all the applications. When you speak of all of the high schools I must qualify the "all".

Q Franklin K. Lane would have most of your applications?

A That's correct.

Q And they would know the names and addresses of all the children who would be coming to Franklin K. Lane High School in September?

A They would have the names and addresses of all of the children for whom they have applications.

Q And they would also have made up already the

programs for these children to a very great extent?

A Are we speaking of Franklin K. Lane?

I couldn't answer.

Q Say Forest Hills?

A They would have a program committee at the end of August, the last week in August, to complete the programming process.

Q The programming process has already begun in June.

A Yes.

Q Would you say this is a similar situation in most high schools throughout the city?

A Yes.

Q Including Franklin K. Lane?

A I expect.

Q Why the smile?

A You are asking me a number of times -- you asked me of my own knowledge could I answer a given question, and I had to say in some instances not of my own knowledge.

Now, you are asking the question about Franklin K. Lane and I submit, of my own knowledge, I cannot answer that question.

Q But you would say that with reference to the

high schools which are under your direct supervision, I mean the Queens high schools, they would commence their programming of the children and would complete it within a week or two weeks prior to the beginning of the September term; is that correct?

A That is correct.

Q Now, if I were to tell you that as of May 30, at least the figures that I had presented to me, there were 679 who came from approximately the western end of the zone to Franklin K. Lane which were known as of May 30, 1974.

Do you feel there is any real problems in advising and contacting these children, already the school has their past history from a junior high school and giving them advise as to the options that may be available to these children.

A Yes.

Q And the problems that these children opted out of taking a specialized examination?

A That's part of it.

Q And I think there was a third point you made.

A The point too, is that the whole process -- the children have had an option amongst three or four schools in Brooklyn and Franklin K. Lane, and some vocational high schools.

Now, we are opening an entirely new book for these children. We are giving them the names of schools probably they never heard of those schools.

They don't know where they are. Their parents don't know where they are. They don't know how to get to their schools. They don't know what's involved in the schools or in the travelling to the schools.

Now, we are saying to them, we want you to have on the basis of flip choice make the pick of a school. I submit that this is not sound educational practice.

Q Does it have to be the flip to make the choice if you have a period of three or four weeks where you have intensive guidance in terms of having people who are just going to do guidance for the next three or four weeks, and are not doing anything else during the school term to do this work?

A You have set up a process with which I am not familiar. I never had any contact with a process of a guidance program in the summertime, when neither teachers, guidance counsellors, students or their parents are readily available to set up this type of informational service.

I don't think on the basis of my own expertise I can answer that question.

Q Let me ask you a question. Can you, from

your experience with the Board of Education, do you have an opinion as to whether or not it is possible to get a number of guidance counsellors to start work within the next week or ten days?

Would that be a problem for the Board of Education of the City of New York?

A He's asking for an opinion. It's my opinion that it's a serious problem.

Q What is the problem.

A The number one problem is the availability of people, the willingness of people, the matter of union contracts which are in effect; the fact that while we state that the guidance personnel to which you refer are not employed at the Board of Education, a good many of them may be employed elsewhere or maybe travelling on vacation or whatever.

In my opinion it would be an extremely difficult process to set up.

Q Since it would be a problem, from your experience in 40 years with the Board of Education, how many guidance workers would be required who are working a full day at guidance to help and assist approximately 600 children in making a decision?

How many would you say would you say would be

necessary?

A I'm going to answer it in mathematical terms since you are asking a how many question.

If I may I would like to --

Q 600 students.

A I would say half a dozen guidance counsellors should be able to process them. However, the guidance process isn't one that just speaks of a person in relation to a given number of children. The process involved in making young people to making the choices, and as I indicated, if you have a group guidance program, it involves relationships with children, not only from what the record indicates but from a conversation with children, groups and individuals; discussions with their teachers as to their background and potentiality, needs, etc.

There is a great deal more involved than just the fact that you pick up a piece of paper and make an assignment and have some youngsters living in that geographic area to which we have referred, to get something in the mail which informs him that he's not going to either Lane or Lafayette High School, instead he is going to William Cullen Bryant High School.

Q I think, Mr. Wilner, I think you are jumping the gun here. I don't expect any guidance worker to send

out a letter that they are going to A, B, C school.

I would expect the guidance worker to make contact with the child and with the family and have a personalized interview with the child, with the family and discussing the alternatives and having before him the record and recommendation of the school from which they have come, and to really give them guidance.

In other words, it's not just a mere letter going out to a child. I'm talking about guidance where there is a personal contact.

Do you feel that can be done?

A No, I don't feel that could be done now. I think that process on individuals and personnel, guidance carried on in the schools when the children are available in the schools, in classes, in groups and individually and when --

Q Let me say this --

A If it has that many problems involved in there, obviously to do it within the scope of a couple of weeks -- now, in the middle of August when nobody is really available represents, I think, very, very difficult problems.

Q Mr. Wilner, with all your experience, and you referred to the question of truancy in this particular

area. You are experienced as an educator. Do you say, it is your opinion that kids who may be truant communicate with their parents about what's going on in the schools?

Is that what you are saying?

A I didn't say that. If you are referring to any inference that can be drawn from what I said -- I indicated that that very lack of communication between the truancy population, that lack of -- that creates a great problem to overcome.

It needs time and energy, and in a great many instances it can't be overcome. You cannot make the communication readily.

I submit when you point out in your question that there is this lack of communication what you are really pointing out is a major part of the problem in getting adequate guidance service to these kinds of children.

(Cont'd next page.)

Q And here is an opportunity for the Board of Education in the period of the next three or four weeks getting individualized guidance for kids who may not have received that type of guidance, and you feel that that is something which is really insurmountable on the part of the Board of Education.

A I didn't say insurmountable. I said these matters are insurmountable. I do believe it would be difficult to get this type of success in this type of operation.

Q And say, for example, instead of only six guidance workers you have twelve; would that make the task easier?

A It wouldn't make it any simpler. It would provide a smaller case load for each of the guidance workers involved.

Q Would this type of school population which has been a deprived type of population in terms of the educational background, wouldn't it be an experiment on the part of the Board of Education to see whether or not a job could be done?

A I suppose it would.

Q Is it not a fact, Mr. Wilner, that even after the school year begins, for example, I can tell you at Franklin K. Lane last year after the school term began, the school suddenly got 600 applications coming in from all different

parts of the area. Does that happen in high schools?

A It happens in some high schools but not in all high schools. There are one or two high schools in other parts of the city where the problem is even greater. This is what I thought your Honor, you were referring to when you spoke of a migrant population. There is a migrant population in many parts of the city where we do have what some of the school administration refers to as over-the-counter admissions; people who never in the schools, in the feeder schools, who either move into the community or are newly arrived in the city and present themselves for education. It's our responsibility to make every possible action available to these young people and to provide perhaps to them --

Q And therefore after the school year has begun the school is re-programmed or programming for additional students coming into the school?

A It is making programs for the young people.

Q For five, six hundred kids that may be coming in?

A That's correct.

Q And if, for example, the optional programs for the western and other zone were to go into effect, even for example, if there was a delay for the school term to begin, the first month, day after Labor Day, I believe --

THE COURT: September 8th.

Q September 8th, for example, if the Board isn't able with the twelve guidance workers to do the job, the optional program for the western end -- and there is a delay for one week or so, where the kids are coming into the school, is there any real problem about their going to one of the optional schools after having guidance?

A You say is there any real problem? I would point out that obviously we can do a better job for those young people forwhom we have an opportunity to perform guidance services, the young people that come in over the counter admission are young people who are newly arrived in a community, and we have to provide educational opportunities for them. There is an expiration period that develops with them. We hold them, what we call vestibule classes, while we find out what the language difficulties are, what prior learning preparation has been. We try to evaluate their background. I submit this is not a problem as inherent in New York City intermediate and junior high schools.

THE COURT: Do you know this new potential enclave area that we are talking about at all?

THE WITNESS: Yes, I know something about it.

THE COURT: Do you know that area?

THE WITNESS: Yes.

THE COURT: Do you know if I can put it in terms

of income level and truancy, and all the rest of it, whether that's the west end of Bedford-Stuyvesant or not?

A The area includes the Ocean Hill-Brownsville area.

THE COURT: And that's the one where there is a lot of --

THE WITNESS: Deprivation and community decay and a great many social problems involved in the area.

THE COURT: So that area that is being re-zoned, if the Board's plan is accepted is quite possibly one of the highest truancy areas, wouldn't you guess?

THE WITNESS: Yes.

THE COURT: I realize what you say about guidance and all that, but isn't it at least possible that these children and their parents are those who have been least reached by existing guidance programs because they are the kind of people who do not seek it but guidance has to be thrust on them; isn't that the Board's experience?

THE WITNESS: In general, the answer is yes.

THE COURT: Too often there are family problems that make communication difficult and response even more difficult; isn't that right?

THE WITNESS: There are a great deal of deep-

seated social problems. There are unemployment problems, poverty problems, family and home problems, all of which, of course, make the matter of communication, the matterof guidance of these youngsters all the more difficult.

THE COURT: And they are not, it's not the part of the population -- of the school population which probably have been reached already by group plan and school oriented guidance -- in other words, the point I'm really after is just the kind of population that we are concerned with in the proposed plan is the one which is properly profited least by the organized and planned guidance instrumentalities of the system; isn't that so?

THE WITNESS: That might be so.

THE COURT: What I want to know next, every one of these children has some kind of inward program set out, either in Lane or the school to which they have presently opted?

THE WITNESS: We expectevery one of those children would have a program at the opening of school.

THE COURT: And that already --

THE WITNESS: Begun.

THE COURT: Before the summer recess.

THE WITNESS: That's correct.

THE COURT: Wouldn't that all be incorporated in the child's file in a particular school, whether it be chartered or class rosters or things of that sort? The children to whom we now refer, whether they are admitted at Lane or whether they are on the entry rolls of lane or another school, obviously would be on the roll of that school and there would be some preparatory work having been completed on their new program for the September term, and the board would know where their file was at the moment-?

I take it that something goes forward with the child from the feeder school to the high school.

THE WITNESS: That's correct.

THE COURT: So that material ought to be there.

THE WITNESS: Yes.

THE COURT: I think what Mr. Todel is after is after putting that child into a program at Lane, I suppose as part of that appraisal of the child's potential, there are some specialized programs within Lane itself and there are obvious choices, language and other choices to be made by an entrant into Lane.

THE WITNESS: That's right.

THE COURT: So that to a certain extent whatever

guidance brings to the process of trying to fit a child to the program and the program to a child, would also enable anyone who was in the profession to tell fairly quickly whether that program is available, that these other eight or eleven schools -- in other words, if you're fitting the child to a particular program at Lane, you would almost know automatically -- well they do this better -- and if this child is going to have this program at Lane, the choice that you would recommend for him amongst these new sc[illegible]would be just to have a name Bryant rather than [illegible]veland; isn't that true?

THE WITNESS: In the process of guidance, if it's done that way that's the resource one would have to use.

THE COURT: When you are talking about these children coming from the schools, and this potential, you are talking about children who are always difficult to program.

THE WITNESS: Yes.

THE COURT: You are not talking about the child when he first comes into a school and just peers at any education you want to give him. You are not talking about those children here. You are talking

about children an earlier time were called potential problem children.

THE WITNESS: Yes, we are, and that's substantially --

THE COURT: Because they come out of the subculture of poverty.

THE WITNESS: That's been the thrust of my answer; that we are responsible for providing more and better and more intensive guidance rather than less.

THE COURT: What I am suggesting to you is -- this will be -- and what Mr. Todel is suggesting probably, this is the first time that they will have received genuine guidance when the guidance counselors must go out and seek them and on an individual basis, rather than to rely on what has to be because of the numbers involved, and essentially secondary guidance which must wait for the children and parents to come --

THE WITNESS: I think any process attempting to reach these children and their families would run into the same obstacles and difficulties that are run into in the normal school year, except for the fact that in the normal school year there is more time. There is the opportunity to send several communications

to a parent. There is an opportunity to inform a parent and student as to what a program is.

THE COURT: I think the contrast that I want to point out to you is only after you establish a specialized enclave does that kind of reach-out effort get mounted; that in the current school year to date, since these children were not part of an enclave, that kind of individual effort was not made to reach, give them special guidance and they have been away for reasons that are perfectly understanding, not at all the fault of the board, simply allowed to take their natural course.

THE WITNESS: The point that I would like to make in commenting on what you have been saying --

THE COURT: Let me ask you one further thing, so I can get all these on the table at once.

I think you have been here throughout this hearing on Friday, and I think you had heard about the case before, at least in a general way, and it is a problem and one in which I think a part of the problem is in seeing in what the board does do or is required to do if a proper order is made and is not appealed or is affirmed, will require a good deal of belief and to earn its way, and I think the Board's

own plan makes that very clear. Now, what is a factor here is time itself and what that will do to the success of the Board's plan. Suppose the Board's plan were to be adopted, part of its success would be dependent on its visible effect and the sooner the better. If it's like an authorization bill, no appropriation, or something that is going to take effect next year, and as we all know all the buttons can come off everything in a year so it doesn't get much credance. Everybody says we'll wait and see what happens, but if it were considered important here to the effect of implementation of the Board's plan, adoped in the alternative that the Board must recommend that this move be made as the indispensible gesture of good faith, would that change your view of the importance of making an all-out effort and attempting to surmount?

THE WITNESS: I'm not sure I get the correct impact of your question.

THE COURT: If it were important to the Board' being able to follow through on let us say their alternative, a plan here that a positive immediate thing be done to begin the Plan, the public credence and public cooperation, that alone can make it a good

plan and a successful plan; and as a technical matter the only way to win that credence was by act of faith and good faith, to wit, to relocate these underprivileged children this fall to a school that would do them better than Lane, would you agree that there is a time to do that, if it's that important to the Board and its long-range plan?

THE WITNESS: You have asked a question which only has one answer. It can be done on paper. I'll repeat that. It can be done on paper. I do not believe that after you have laid out all the problems to getting to children like these and their families with proper guidance and informational service, when the children are available in school, in classes and in groups, and even with a 60 percent attendance figure on these children, you have that 60 percent present and with you, and, of course, as more children come in they are there and you can reach them. If all the difficulties are there then how much more difficult is it now to mount a proper guidance and informational service to make that change acceptable and feasible within this population?

THE COURT: I think it might be a great deal easier because I think you might be holding out a

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promise that is not held out otherwise. If these children know they are in the Lane area and that it's Lane or something else, I don't know that your effort accomplishes much, but if you open an horizon, if you tell them that they are not going to have to go to a police environment school, in a neighborhood in which they are not welcome and which is possibly hostile to them, and a school that has been deserted by its own neighborhood and that the alternative is that they will have a range of choice, at a cost of travel, of course, that you might have a quite different result, and if you are reaching out to them -- now, of course, it's true we don't know just what percentage children from this immediate, particular enclave area would be in school on guidance day. It might not be as high as 60 -- forget what the over-all attendance at Lane was -- and this may be the end of the Lane district which is responsible for its low over-all attendance figure, so it could be as to this enclave area a frightening low ratio, but I do suggest that if it does become necessary to impress these people, it may, perhaps, be the first time the Government has ever held a hand out to them.

THE WITNESS: We have no experience on the basis

of which we could base such a judgment.

CROSS-EXAMINATION

BY MR. TODEL (Continuing):

Q Mr. Wilner, don't you recognize that this is an opportunity which once having passed doesn't present itself to the Board of Education. My opening remark was the fact that there is a complete lack of faith within the Board of Education. It's not a matter of incompetence but there is a sense of resignation that the Board has given up.

A I don't think that's true.

Q Mr. Wilner, the point --

MR. GOPSTEIN: This line of questioning is improper. He's not authorized to give the opinion of the Board of Education.

MR. TODEL: It's proper objection. I withdraw my question. No further questions.

REDIRECT EXAMINATION

BY MR. GOPSTEIN:

Q If I can pick up some of the lines of questioning that were just being pursued so we can just follow it up a little bit. We have had the comments and the suggestions that because of the type of children involved here maybe the traditional guidance process doesn't reach as many as elsewhere. You say it probably does reach some, perhaps many.

Assuming that that is so and that you cannot get to them in the normal school way or in the normal ways, would it not be true, to truly get to them would require far more time than the normal guidance process, not less time?

A Yes.

Q If for example you have 60 percent attendance and 40 percent non-attendance, in this case we have 100 percen non-attendance, so we have to go after five or six hundred parents by mail, by phone; if it is as poor as area as it is described, would it not be possible that letters would have a very high chance of not getting to the places where they are mailed?

A Yes, our experience includes that, letters returned as no address found.

Q And if it is as poor an area as suggested, and you do the next logical thing, isn't it true that a lot of parents are very poor and don't have telephones?

A Yes.

Q So if you started to try to pursue each parent individually, would you not be getting into an area which is almost that of attendance officers trying to track down a student, and isn't that time consuming?

A We would have to use substantial services and personnel of the attendance bureau rather than guidance

counselors in order to make the contact.

Q Just to make your initial contact without any guidance process you would be after 500 individually, with all the problems in that neighborhood present just to make the contact?

A Yes.

Q And the guidance process would have to be more intensive than the guidance process done on an individual basis?

A Yes.

Q You would try to call parents in, set up arrangements?

A Correct.

Q Now, to go back a little bit over some of the items covered by Mr. Todel, just to clarify one thing. The job of the guidance worker during the regular school year, the giving of the kind of guidance that we are talking about. It's not something outside of his job, that's part of his job.

A That's correct, with classes, with the students in the eighth year of the intermediate school, ninth year of a junior high school; that is the major part of guidance service provided, selection of a high school.

Q So during the full year the guidance worker

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has to do this after school?

A Yes.

Q Let's pin down one other area. Now today is August 5, I wouldn't care to presume when a Court decision came down if briefs were filed, additional testimony was heard, let's assume a decision by next Monday, August 12th. You testified that school opens September 8th?

THE COURT: I said that.

THE WITNESS: It's the 9th, Labor Day is the 2nd.

Q Now, let's go back to processes. Let's see whether it's three or four weeks, which you testified is a very short period of time. Before school opens you have the function, do you, of programming the children, the teachers, everything has to be done by a few days, a week before the beginning of school?

A It's usually done in the fourth week in August, sometimes it reaches into the third week in August.

(Continued next page.)

#5 fls

Q Prior to that, when you start that process, you have the name of the children assigned to your school, that's obvious?

A Yes.

Q In an open admissions process, is there not some period of time between the time that the parents have made the final choice or you have made it for them, and between the time that the schools know who is going to be attending them, is there not a problem of sorting out where the available species are?

A The process indicates, for example, in the exhibit, on choice of admission program in the Queens High School, the calendar indicates that there is a substantial period of time between the time the options are made, choice of school and the actual information to the families, to the children themselves of the schools chosen.

If you look at the calendar you can look at that -- the calendar indicates that the actual choice is made in February, and information goes -- assignment notices sent to participating school on April 19, several months involved.

Q We have about seven weeks. Assuming an emergency, it's not seven, it has to be six, five, four or three, since we are throwing all experience to the winds, for purposes of argument, let's say we have one week to perform this, so we have about a week for programming.

We have a week for the selection to be made, that brings us back to the opening of school, into the end of August.

We are not talking of four weeks, at most two weeks for this material to go out for the guidance to take place, for the parents to make the choices, and for this process to finish.

I would like to get back to some of the things that were brushed aside too lightly as to the problem.

Let's assume we get a few guidance counsellors in, as far as guidance counsellors and teachers, just to state on the record, with the normal process -- many people are away on vacation now.

A That's correct.

Q And it's a normal part of the teachers' contract that they work ten months, and two months, of course, it is a vacation time.

THE COURT: That's not the position that the Court is taking. They are made on an annual basis, and they are available for necessary school tasks, normally the school year closes in June and reopens in September, but if the needs of the system, as I understand it, call for their performing tasks at other times, that's a part of their contract.

MR. GOPSTEIN: Frankly, your HOnor, I am not sure.

THE WITNESS: I wouldn't comment on that.

THE COURT: It's a very complicated situation, made more complex by the union contract.

MR. GOPSTEIN: I know there has been litigation on that issue.

THE COURT: Oh, yes.

MR. GOPSTEIN: But regardless of the contract provision-- counsellors might be away, and unable to reach and might be employed in other positions.

THE WITNESS: Yes.

CONTINUED REDIRECT EXAMINATION

BY MR. GOPSTEIN:

Q Let's assume the availability of guidance counsellors, you testified that part of the normal process is to have the student in the school, needless to say the students are not on call, you could not gather them as you might gather your staff -- at least that's part of the process you could not do during the summer.

A That's so.

Q And also, you could not give them -- you would give the memorandum, transportation information etcetera -- that you also could not do.

A That's so.

Q And if those parents wanted to visit the receiving high school, we are all interesting in having the parents exercise

their choice, if they wanted to see the receiving high school, that they could not do.

A No, they could not.

Q You would have that problem also of reaching parochial schools during the summer?

A Yes.

Q As far as one possibility that Mr. Todel mentioned, having these students start after the school sessions begins do you consider that a desirable alternative for a student entering a new school missing a week or two weeks -- is that a way?

A Obviously not. Mr. Todel referred to those students who normally come into a school later, and we do have that problem; every high school has that problem withwho transfers from other high schools, and obviously programs have to be made for them, but that isn't the best possible arrangement.

Q And if, as I think you suggested, it would be very difficult to get all of these parents -- under this procedure who would then have to make the choice for the parent?

A Probably the Program Committee in the receiving school.

Q Who makes -- who would make the choice as to which school?

A The choice of school would have to be made by the staff assigned to the process of getting to the parents and getting their options.

Someone on that staff would have to be designated as the person who would assign the children, who had not made an option.

Q Considering the nature of thisneighborhood, that a good number of choices would be made for the children, rather than the parents making it?

A A large number of choices would be made for the parents.

Q Do you think that's a desirable way of running an option program?

A It's not an options program. It's an assignment program, we are assigning them to other schools.

Q Schools that are away from their neighborhood, the same distance to travel that we heard about on Friday?

A That's right.

Q Now, the guidance function which we have heard, perhaps does not reach these students as much and has been suggested that not every parent attends a PTA meeting, and not every child gets an hour a week -- not every parent goes to a receiving school, we'll admit that. Is it not true that an extensive effort is used to approach these people?

A As a matter of fact, when criticisms are made in the receiving offices, in the high school, as to the late receipt of applications for the high schools, the excuse that is given, the reason that is given for that late submission of some

applications, is that they haven't had the opportunity in the lower school to talk with the parents and obtain parent's signatures on applications, so we make every effort to have the record indicate those that we haven't been able to reach.

We haven't reached -- we have gotten some form of consent, and we make every effort to see to it that the lowest schools do provide informational services to the families, particularly when there is an option or choice to be expressed.

Q Now, you were here Friday and you heard a great deal of sentiment by parents, the need to give Franklin a new image, the need to give new students or present students their best possible new image, educational opportunity to meet their education needs.

Do you think that the educational needs of these students who are about to be rezoned out of Franklin, who are five or six hundred students, probably all of them minority, do you think the best way they can get a new deal is by going two or three weeks, or perhaps in the middle of the summer and trying to implement an options program of this kind, during the summer while the schools are closed.

A I think all of my statements -- I think all of my responses have indicated my judgment there.

MR. GOPSTEIN: Thank you.

RECROSS EXAMINATION

BY MR. TODEL:

Q Mr. Wilner, does it occur in the southeastern part of Queens and the optional program, does it occur that children were assigned to various high schools in the optional program where there wasn't any parent signature -- did it occur?

A Of course it occurred.

Q Who made the decision then?

A That decision is made in the lowest school.

Q And even though the parents hadn't signed?

A That's correct.

Q Now, within the Board of Education, since you have the years of experience you have had, isn't there a group or a staffing group which could really figure out a community program which would be meaningful, the attempt within a short period of time, with the type of publicity that should be zeroed in on this particular problem, work out plans to see that this would not be an insurmountable job, but a very practical and realistic job, namely, of seeing to it that approximately 600 children who have had a minimum of education, minimum of guidance, or a great deal of truancy, reaching out to them -- is there any group in the Board of Education that could figure out that kind of program from your experience?

A I have to answer that in a qualified way.

There is a planning and research group at the Board,

which could be given this task, this responsibility, but whether it would be practical or realistic is another aspect of it.

Q You haven't been able to do it within the period of six months or a year, prior to any program on an optional -- I will withdraw that --

A I don't believe that's so. I submitted in my statement--

MR. TODEL: I will withdraw that. No further questions.

MR. GOPSTEIN: Can I just ask that those two documents be marked in evidence?

THE COURT: Received.

THE CLERK: Defendant's Exhibits A and B previously marked for identification, now received in evidence, and so marked.

THE COURT: Shall we adjourn until two thirty, and I believe that some of the representatives of organizations who were here Friday, have something additional to present today, but not only has Mr. Le Gendre run out of papers, his fingers are exhausted.

Be back at two thirty.

(Whereupon, a luncheon recess was had).

* * * * * *

AFTERNOON SESSION

MS. LOWENHAUPT: Your Honor, my name is Josette Lowehhaupt, I live at 94-56 133rd Avenue, Ozone Park.

The only thing that I brought to the hearing today is this letter which I have written to your Honor.

(Whereupon Ms. Lowenhaut read letter as follows).

"August 5, 1974

"Honorable John F. Dooling

"Your Honor:

"At the judicial hearing of August 2, you expressed interest in receiving the numbers of children residing in Franklin L. Lane's zone, who perhaps would attend Lane if the school were an attractive one. The Board of Education would be able to give you accurate figures regarding the public schools but would not have ready access to the parochial figures. Mrs. John De Riso worked over the weekend to contact the necessary people in order to get as accurate an account as possible. The following figures are the result of this work:

"Blessed Sacrament 102

"St Fortunata 120

"St. Gabriel(closing)

"St. John Cantius 40 (all to public high school)

"St. Malachy 40 (All to public high school)

"St. Michael 70

"St. Rita 80

"St. Sylvester 77 (All to public high school.

"St. Elizabeth 80

"St. Thomas 112

"St. Stanislaus 12

"Total 733

"You must take a percentage off these numbers (except where indicated) to reflect those who would go to parochial high schools.

"Approximately 30%.

"Respectfully submitted."

It was indicated to me that all of these schools at least more than half go to parochial schools from all of these high schools.

If they are not going to Lane, they are going to public high schools by various circumventing means. That is the extent of what I brought with me today.

THE COURT: Unless they go to military schools.

MS. LOWENHAUPT: Private schools.

THE COURT: Boarding schools.

MS. LOWENHAUPT: These were only supposed to be potential students for Lane, if the school were attractive

and parents would want to send their children there.

THE COURT: Did you know the neighborhood well enough?

MS LOWENHAUPT: Mr. Serico told me he got figures to those that were zoned infrequently.

These would reflect those now zoned into Lane.

THE COURT: If these are the families -- the pre-Lane zone -- and even though the schools themselves may not be essential to that zone -- is that the type of question you had in mind -- all would opt to go to public schools, those three figures that I have -- those notations said that all of the graduates this year opted to go to public schools, public high schools. That figure reflects graduates this year from that school.

MR. GOPSTEIN: All have chosen to go to public high schools, but not to Lane.

MS. LOWENHAUPT: They all chose to go to public high schools, but not parochial high schools.

MR. GOPSTEIN: I am trying to see what that information means. If we have 40-40 and 7-7 -- that you were told that all are going to public high schools, that's 157.

MS. LOWENHAUPT: Right.

MR. GOPSTEIN: Now, we have heard about people changing addresses. Does that mean that somebody knows specifically that there are 157 parochial school graduates who live in the Lane zone, and if they went without special options, would go to public high schools, would have to go to Lane -- if they are not going to Lane, does somebody know where they are going?

MS. LOWENHAUPT: They could be going to specialized high school.

MR. GOPSTEIN: Aside from those schools that they would have a legal option to go to, howmany would you estimate are going to public high schools?

MS. LOWENHAUPT: I don't know. You have a figure how many parocbial students go to Lane. I think Mr. Wilner showed me 48 parochial students going to Lane High School, you subtract the number. I have no idea where the others are going. They are probably circumvening if they are not in a specialized city high school.

THE COURT: Would this help Mr. Gopstein, of this 733, some of them may have registered in Lane's already?

MR. GOPSTEIN: We have a figure for the number of parochial school graduates, who have enrolled in Lane.

THE COURT: For this year?

MR. GOPSTEIN: The last figure is for this coming school year. That is listed at 42. I supposed we could subtract backwards from using that.

MS. LOWENHAUPT: That supports the claim of the speaker last Friday, that said this entire zone, a good part of this zone is circumventing, going to Lane, that's the support right there.

MR. GOPSTEIN: I think the question of how many would go to Lane, how many would go to a parochial school and get a break with parochial school education, is a tremendous amount of conjecture. I don't know how you arrive at these figures, nobody has bothered to interview the parent or get figures of other schools, to see whether parochial school parents prefer to go to parochial schools, which has a predominantly white school population.

These are all variables to make a valid conclusion

MS. LOWENHAUPT: I would agree. I just think there are definitely some that are avoiding and might send their children to school -- it's my opinion that these figures say there are a considerable number or the school attractive, that's what I am trying to show with these figures.

There is supposedly an accurate count of the grad-

uating classes that are in that zone. I can't say why the parents don't go to Lane, or why they circumvent by whatever means they are using -- they could go to Lane if it was an attractive school, because they live near the school.

MR. GOPSTEIN: I think, your Honor, that part of the Board of Education's plan -- of course, I take into account the recognized large numbers of the white population presently zoned.

THE COURT: One question that does raise. I don't what the relative attraction of the public grade school and the parochial grade schools in the area are, but if this is -- the area in which these schools are located, predominantly community, and predominantly other neighborhood, whether this number doesn't represent those who are committed to Catholic education, even though it costs something, and therefore, could be expected to go to diocese high schools, even though they cost something -- do we know? Do we know how many of the 733 have registered to go to the diocese high school.

MS. LOWENHAUPT: They told me less than half registered to go to Catholic schools, and the woman who related this to me said in each instance, they told her less than half go to the parochial high schools.

THE COURT: I guess when they say parochial high schools, they mean Catholic high schools.

MS. LOWENHAUPT: Yes.

THE COURT: I think technically most of the high schools are diocese rather than parochial.

MR. WILNER: The high schools are diocese.

THE COURT: Don't go too overboard. My four girls went to parochial high school.

MR. WILNER: Not in the city -- you have two kinds of schools. You have the schools like St. Francis and St. John's which are maintained by order and rather wide areas. They are private Catholic high schools; then you have the diocese high schools like --

THE COURT: Like Bishop Ford. Anyone else?

MS. GRASWALD: My name is Mary Jane Graswald, I live at 9007 74th Street, Woodhaven.

I am with the Franklin K. Lane Adult Education Center, and I only wanted to speak in regard to one point, your Honor. We do feel that the implementation of this plan can be for this September. We would like, as you pointed out, your Honor, to be able to have confidence again in the Board of Education. As it is true with all the communities that we do deal with, and we are in favor of the coalition plan.

We are part of the coalition that the Board of Ed

is losing what the people in Woodhaven hope that they will be able to show us, by some implementation by this plan in September. The week before your Honor came out with the decision, community leaders from Woodhaven along with the principal of the high school, and the guidance counsellor at the high school, Mr. Silverstone, had an appointment with Dr. Crozier and Mr. Hoch in his office, asking him to please relieve us again this year as they had committed to do the year before in regard to the students from 271 and 55.

THE COURT: Are those intermediate schools, or high schools?

MS. GRASWALD: Junior high and intermediate schools. They said that they could not do anything to help us, that we had to take the abundance of these students, even after your decision came down, your Honor; and we met at Clara Barton High School.

We again approached Dr. Crozier and Mr. Hoch, and asked them if they would still consider relieving us of these extra students, that our high school could not stand to have any type of disruption again, and the community has a great interest in being able to send them, their children, to a high school and know that they will be educated and not have to worry about their children

going up to the high school. I spoke with Mr. Hoch the last week in June, and he told me again that they had no intention except for the open admissions, of relieving any of the students from the high school.

When I checked with the admissions officer, to this date, there are 534 applications at Lane High School, even with open admissions.

THE COURT: From those two schools?

MS. GRASWALD: And there is one more school included, I believe it's 296. I left my pad home -- or 196.

THE COURT: Would this help you?

MS. GRASWALD: And all we are trying to say is that we feel that the Board of Education with its expertise can accomplish this before the beginning of school, and we are only asking that they try to do it so that we can have our high school back, -- that's 296.

Here are the figures. There were 94 students from 96 -- from 55, we received 34 students last year -- we have 104 coming. And we really feel if anything does happen within the school this year, that we will lose our community gradually, as every year people in our community move out as their children become high school age. They cannot afford to send them to private schools

any more.

Each year the tuitio' mounts every year and we cannot afford that in Woodhaven.

THE COURT: I think Mr. Gopstein, Mr. Todel made available to you and Mr. Wilner a copy of this schedule, which purports to show the students admitted to Lane in each of the years, in 1970 through 1974, and the feeder schools from which they were admitted.

I don't know whether you have a chance to check those out against the Board's records, but is the schedul at which the last witness was looking, and she spoke.

MR. GOPSTEIN: I would have to check out I guess-- referring to the drop in 1973 where I see that IS 55 was --had sent 130 -- 140 and 104 dropped down to 34 students, that's 1973; IS 271, the same thing-- I don't know if the answer is that it was really viro, just from a very cursory discussion, whether because of pressure -- I am not sure of the situation, but in that year, a great many of the students from IS 55 and 271, I don't know from any others, who would have attended Franklin Lane did not.

Now, that doesn't mean that they were attending open admissions elsewhere. The record shows that there had been a hundred open admission acceptances from the five or six hundred, so the rest of them were probably

--for convenience of somebody -- was probably attending the neighborhood school, Prospect Heights, Boys High, Jefferson, which has a higher minority population than Franklin K. Lane.

That doesn't solve the problems of those students. To the best of my knowledge, and again I could check this, there was no rezoning of Lane in that year.

THE COURT: I don't think that was the suggestion.

MR. COPSTEIN: If it did happen, there was a lot of statements made back and forth; the two individuals who were referred to, I am sure they don't have the authority to rezone in that fashion.

There is a specific process that goes up to the-- "relieve them of the extra students". I stand in back of that phrase. I think it reflects as something about some of the interests involved. I don't think these are extra students. I don't think it's a student that should be relieved of -- I think that goes back to the testimony we heard this morning.

THE COURT: Now, everything that we have discussed that I think was left open, I have those two charts put on the blackboard there, because of what had been said here with reference really, this would be the zone that would be added to Franklin K. Lane by altering the zoning

law. I think part of the Grover Cleveland, Richmond Hill and John Adams zone -- remember, it was said that that would in some cases, mean that children who were now living within walking distance of the schools, which they were zoned, would have to take two or three connecting buses to get to Lane. And travel time in each connection, would be as high as an hour and a half, and I think that those two maps -- I am not sure that they are in the same scale -- they could show the locations of the various high schools, and might enable us together to form -- as to the number of children who would be in that grave disadvantage in travel.

Certainly not all of them, but some at least.

MR. GOPSTEIN: Your Honor, I think that would assume that each of them was to go by public transportation.

(Continued on next page.)

THE COURT: I have visualized them --

MR. GOPSTEIN: Of course, if they are over eighteen, I was comparing them with the possibility of contract transportation, which is used in many situations.

Of course, it's used with younger children in a more wide spread way.

THE COURT: I am so used to coming to the childre on the bus in the morning .

MR. GOPSTEIN: I had asked about a possibility of this, contract transportation is used in some situations even at high school level. I think that cannot be --

THE COURT: Is that really to supplement bus routes, whereas it happens the school traffic pattern does not coincide with any public transportation.

MR. GOPSTEIN: If it's out of the way, I suppose that's such -- that's what such arrangements are for.

THE COURT: It's like the express bus from Bay Ridge?

MR. GOPSTEIN: Never had the pleasure to take it.

MR. TODEL: I have checked out some of the addresses, and apparently most of the children would be able to come to school, even though from far distances

away from the school, by use of two bus lines, a transfer.

THE COURT: Apparently, there is a question as to possibly if a bus came across Cypress Hills right through the cemetery, it leads right off from Jamaica, to two, three blocks away from the school.

MR. TODEL: It's about three blocks away.

THE COURT: That three blocks in Brooklyn can mean 600 feet or 2100 feet.

MR. TODEL: I know in other high schools, the Board of Education has been able to make arrangements with the MTA to extend a bus route, and they have, I know, and in a specific high school in the Bronx, where they have extended a ride to the high school itself.

If there is any problem with reference to any extension on Jamaica Avenue, it could be extended. I think arrangements could be made with the MTA. With reference to the John Adams section, I believe there is transportation, Woodhaven Boulevard. However, there would be in all fairness, there would be one small area where there may be an extra bus necessary.

THE COURT: I believe you have something to contribute on that?

MS. CATHERINE PUSCEMI: I have no notes. It

is going to be a large vertical industrial park, Robert Morse Village, Macy's, satellite industries, they are bringing in three thousand new employees, according to the Traffic Commissioner of New York.

If a traffic survey had been done throughout this area -- we are beyond the saturated point now. Transportation is slowed down. When this opens, they haven't got figured out how to use -- howto move the four trucks per day beyond the traffic that we have now.

[illegible]: What is the main artery?

MS. [illegible]: Metropolitan Avenue is the artery. We are surrounded by cemeteries. There is no other way. In order for a truck to come through, they have to come from Glendale, come down Eighth Street and across, and come back up Metropolitan Avenue. There is no other way unless they want to come in through Brooklyn, and come around the back way.

I have with me an article, it has been in the papers for over a year, there have been quotes from the Traffic Commission, the Highway Department and everyone else that will substantiate what they are saying, when they talk about buses.

It will be no good, they won't get through the

area. It's as simple as that. We can't travel to our own area now.

Once it opens up, it will be a long parking lot towards Brooklyn and coming back from Brooklyn. And now to get down and around where there is an existing route, I think he referred to a bus that travels along Snake Hill Road, I don't know how they can tell us that our children can do this.

THE COURT: What is this, Hillside Avenue?

MS. BUSCEMI: They refer to it as Snake Hill, I believe it's a Cypress Hills Street.

THE COURT: That's the one that goes, east, west?

MS. BUSCEMI: I can't back it up. I don't have the figures with me today, but this is what we are going to be facing inside of one month, in Middle Village. It will be opening in a month and from there on, as far as buses and transportation, I don't see how it's going to be worked out.

THE COURT: You don't think the traffic situation on Metropolitan Avenue is too good right now?

MS. BUSCEMI: Right now, we have trucks, tractor-trailor trucks coming off Metropolitan Avenue, through our narrow side streets. They can't come through Metropolitan Avenue.

Then they have been backed out of the blocks. I am talking some fact, as a resident of the area. I would say about seven in the morning, -- and six to eleven thirty, you cannot ride a car through Metropolitan Avenue. The same thing picks up about two thirty. In the middle of the day, it's just bad.

MS. LOWENHAUPT: In speaking for the Ozone Park area, my public school that I am president of, the area that would require three buses would be Tudor Village. They would need a bus to get to Cross Bay Boulevard, they would then have to go to Woodhaven Boulevard, to Jamaica Avenue, then get the Jamaica Avenue bus or train there, whichever, and then they would travel west to Lane. That would be the three bus area of the Ozone Park Community, but we also have one block away from the school a zoned out area, and right along Crossbay Boulevard many of those children walk to Adams.

They are within walking distance, because Adams is situated on Rockaway Boulevard, and it's a triangular type thing, where the street is expanded and the children walk to school. The children who are living right on Cross Bay Boulevard, can walk to John Adams.

If they had to take a bus to Franklin K. Lane, it would be two buses or a bus and a train, the same travel

except they wouldn't need a bus to get to it, they would still need -- they would have to go to Jamaica Avenue and then West on Jamaica Avenue on that bus to Franklin K. Lane -- it's either a two bus or the two bus area is within walking distance of Adams. It seems ridiculous.

MR. GOPSTEIN: My only comment would be, these comments on transportation any time the Board undertakes rezoning,part of the consideration is the transportation and there are methods of doing it.

I think a systematic approach might require who has expertise aside from contract transportation. Another more recent variant of it, is that sometimes arrangements are made with public transportation facilities to run student buses along the same route, -- just for students along the typical public bus routes.

It also occurs to me that the students in Ocean Hill-Brownsville, who are going to be rezoned someplace else, has a severe problem for transportation, nobody has talked to them.

I think they have the most real problems.

If we talk about arranged transportation, IS 271 area -- who wants to go to Sheepshead Bay, this makes these problems rather small.

THE COURT: Is that it?

MR. GOPSTEIN: As we know, it's not free choice under the plan, which everyone wants us to implement. These children don't have a choice of attending Frankli K.Lane or the nearby neighboring school, they have to take from amongst a group of high schools, all of which are not neighborhood schools.

THE COURT: I think that one thing that you shoul note, the difference between the coalition plan and the plan of the Board of Education. You will see in the Board of Education's plan, the children must opt for one of the eleven schools. There is no residual zoning at all, or no last resource zoning. In the coalition plan, the last resort zoning is Prospect Heights or Boys High, but I think the Board recognized that that was not appropriate in this case, which you must bear in mind, is a desegregation case, and that would take the youngstersfrom this area and commit them to schools both of which have a lower percentage of other than than Lane itself, I believe, I am not sure about Prospect Heights, but I am reasonably confident about Boys High.

I think they are both fairly close in pattern. So now, as you see, the existing Lane District does cover a large geographical area to the south, though part of it though, I think, is fairly unreal, -- children

coming from the extreme south end of the Lane District now travel a very great distance, from a mile point of view, would be travelling further than anyone from the added Districts, that doesn't mean that it's more difficult travel by any means. I don't know what route they would be on -- Fountain Avenue -- I have no idea.

UNIDENTIFIED SPEAKER: This map has an outline of a zone, and that's not the existing Franklin K. Lane zone, that's the high school division proposal.

THE COURT: The big map. Those two maps were what, '72, '73?

MR. GOPSTEIN: It says '73. I didn't have a chance to examine them carefully.

THE COURT: They are really there so we would know where the buildings are located.

UNIDENTIFIED SPEAKER: Most of the zones in the Queens area run to the north and south bus line, most of them are double fare zones.

THE COURT: Double fare zones, with the exception of those lanes running over into Glendale and Ridgewood in the area which is a transfer point for buses. I can tell you briefly in the affected area, some of the zones are a little -- there are two or three bus lines, the zoning in itself -- the general id

of the area is good, butthere are some that aren't; then you have running north to south, you have Crescent Street, Wyckoff Avenue bus, that runs into the area of Grover Cleveland, Richmond Hill. These buses stop three, four blocks from Franklin K. Lane. A large number of the students going to Grover Cleveland come on one fare.

In the Queens area, we have Queens, Woodhaven, 111th Street which goes south to the heart of the Ozone Park area, Lefferts Boulevard, this is within that general area. All of this must be connected with the Jamaica Line, for a double fare, but they do feed directly into Jamaica Avenue, for a double fare -- two buses, they are all MTA lines?

UNIDENTIFIED SPEAKER: Some of them are Green Bus Lines.

THE COURT: I think high school students are entitled to use passes.

UNIDENTIFIED SPEAKER: They can use both. I don't know if they change -- usually you have a bus pass route to your home. You had both of them. One went to Franklin K. Lane, one went to Brooklyn Tech, one walked to school. The other had a bus pass for a certain fare that entitled him to both the bus and

train, but in the general area of Glendale -- I would like to say I walk to work and I walk over the park in 20 minutes, I live less than a quarter of a mile from Franklin K. Lane. I walk downnto Jamaica Avenue and take a bus to either direction, whichever came first, one of which I went to 118th Street, and then took the Richmond Hill back or to Crescent Street and took the bus over.

The trips at the present moment, would take more than an hour, only because of the very long headway on the buses. They would take less than an hour if more buses were put on in the morning.

I take the Jamaica bus every morning, and I'm praying for the high schools to be open so I can get the bus sooner, it's my general feeling a lot of the zoning, a lot of it, there was no consideration given to the great wasteland of Queens, transportation wasteland.

THE COURT: That's good, everybody is presumed to have an automobile if you don't live in Manhattan.

UNIDENTIFIED SPEAKER: Your Honor, I don't know if this applies, but I think it's something that should be brought out. A week ago today, I was at a meeting in the Borough President's office, Donald Madison office,

when Mr. Gifford from the Board of Education gave us an announcement. The reason we were in his office, was to ask for more money for the Queens School District.

We had to take a three point five budget cut. Towards the end of the meeting, Mr. Gifford said I came to give you bad news, the bad news was that another fifteen --- twenty million dollars was going to be looked for in the School District, the rest to make up thirty six million dollars to come from the high school division; one of the things to be cut would be transportation subsidies for the children.

I understand the students who take a bus, no one disregards those children, we realize they already take a bus, but in the whole rezoning thing, the Board of Education now tells us that we must now take buses to get to another school -- or as the lady pointed out, there are some places, true, in Glendale, where you could walk to Franklin K. Lane if you were so inclined, and if the schools were made or transformed in such a fashion that you would want to walk to Franklin K. Lane, it's very good, you could do that.

I remember when I went to Grover Cleveland some of my friends from Ridgewood and Glendale attended Franklin K. Lane, and it was a good school, at that point

in time. We must also take into consideration, we have been told by the Board of Education on many occasions, within our District, or whether it's on a high school level, they don't like to give you a bus. They tell you the children are big and strong, we only bus young children, and if they give you a bus, they will give it to you for a year, and take it away.

This is just to calm you down, but within the District, they just don't like to give you buses and it's very hard, and when you do get them, they don't run right and you have trouble, they don't come when you want them to. They have a union contract, and the Board of Education says, what do you want us to do, take it up with the bus company. You get to a point you can't handle buses and the Board of Education won't intercede for you, so you just get a bunch of parents hollering at a bus driver.

The cost of transportation the Board of Education is saying, looking for thirty six million dollars more to cut from the educational budget. At a meeting which will be held on August 15, the Board of Estimate will meet at one of the places Mr. Gifford said and one of the topics that will be discussed, will be transportation for all children.

MR. GOPSTEIN: I don't intend to cross examine in this way. As far as the monetary issue, it opens up-- I am involved where everyone wants money from the Board of Education.

THE COURT: I am sure the Board of Education wants money, too.

MR. GOPSTEIN: It tries every which way. The Commissioner of Education says we have to spend another eighty million dollars for 200,000 children who can't speak English well. We are before Judge Tyler -- the expenditure and things we have to do -- so the expenditures are there, and they have to be made and I don't know the history of this particular part of it. I am sure, if I had to get Dr. Gifford here to describe functional problems, he is certainly capable of doing that.

Again, what we are saying, particular rezoning plan, shouldn't take place in the form it's proposed because of certain transportation problems. I think the proper way to bring that about, is to get the people in the Board of Education who wouldddescribe the normal process for determining transportation distances, what is considered the maximum reasonable amount for people of high school age, and whether it is believed

that these particular patterns fall within those limits, and also whether the pattern, the transportation patterns the children of IS 271 fall within those limits.

I assume the budget cut would affect those students. I throw these out more as the obvious variables that have to deal with rather than answers, it's difficult in this type of open forum, to really grapple with it.

THE COURT: I guess that leaves us with nothing left except to make decisions, so be it.

I think as someone requested, those who had spoken here representing different organizations, get copies, or a copy of the opinion. I think I said I thought we had everyone's address. If you have any doubt about it, leave your address, whatever is the best address to reach the interested speaker, either an organization or a home address, with Mr. Walsh, so we will be sure to get you a copy.

MR. GOESTHAL: There are a number of issues raised -- unless your Honor would like additional information that your Honor would like to get --

THE COURT: I don't want to keep deferring and deferring, I think we must all recognize these are questions that have sort of rolling answers, one answer begets another question, and we just find that sort of

chain smoking problem. Every time we walk up to one and thought we had the data relevant to that, that would lead us to another and another.

I think the first thing we do want to do is reach some kind of decision that will have enough finality so that it would do two things, a definite response from parties to litigation and those who have a standing as potential appellants, and to determine whether or not we have so much of the beginnings of a plan that can be a common meeting ground that no one is going to appeal it, though it is appealable if whatever we do, it has to go to the Board of Appeals then for obvious reasons, no matter what happens, we want it done as quickly as possible, so that any Appellate provisions can be ended within a final time, and a plan, at some time put into effect.

Now, it seems to me that the first thing that we must do -- now, no plan of this kind is period and final, and every decree that is issued in such a court like this and on such an occasion, is in effect, open at one end, it isn't like the Magna Carta, which was to be for all times, but which we found out in college history, has to be repromulgated, every time the king died in the light of changing conditions, and can be

reopened to adjust it, to a changed condition. The decision is reserved.

* * * * * * * * * * *

Judgment

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

71 C 502

CHARLES DEFELICE, *et al.*,

Plaintiffs,

against

THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, *et al.*,

Defendants.

This action came on for trial before the Court, the Honorable John F. Dooling, Jr., District Judge, presiding, and the issues having been duly tried and a decision having been filed on May 16, 1974 in a Memorandum incorporating Findings of Fact and Order, it is upon said decision, the Memorandum and Order of April 10, 1972, and the Memorandum and Order for Judgment of August 8, 1974.

ORDERED, ADJUDGED AND DECREED:

1. That defendants implement the Board of Education of the City of New York Franklin K. Lane Zone Proposal including Implementation Plan A, (a copy of which is annexed), as submitted July 15, 1974 pursuant to the Order of May 16, 1974, with the modification that no new students are to be admitted to Franklin K. Lane High School from the "Areas Removed from Franklin K. Lane H.S." in the

school year commencing September 1974 and the students from such areas will be assigned in accordance with the scheme set forth at page 9 of the Proposal among the schools there listed.

2. That jurisdiction of this suit is retained for the purpose of making any further orders to carry into effect this judgment and any further order necessary or proper to be made.

Approved:

August 8, 1974
John F. Dooling, Jr.
U. S. D. J.

Lewis Orie
Clerk

By: Thomas Blasteen
Chief Deputy Clerk

Memorandum and Order for Judgment

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

No. 71-C-502

CHARLES DEFELICE, *et al.*,

Plaintiffs,

against

BOARD OF EDUCATION, *et al.*,

Defendants.

Appearances:

MORTIMER TODEL, Esq., for plaintiffs

DORON GOPSTEIN, Esq. (ADRIAN P. BURKE, Esq., Corporation Counsel of the City of New York, of Counsel), for defendants

DOOLING, D. J.

The decision of May 16, 1974, directed the Board to submit a rezoning plan within thirty days, on ten days notice to the other parties. After telephone relays to all Community School Districts and High School Principals in Brooklyn and Queens, in order to advise them of public meetings scheduled for May 24 and May 31, 1974, the Board sent invitations and copies of the May 16 decision to them, to every local school board in Brooklyn and Queens, to all

City, State and Federal legislative representatives in Brooklyn and Queens, to the Borough Presidents, and to leaders of the major parties. Joint meetings of the Board's Zoning Unit and High School Division discussed approaches to the same problem, and on May 24, 1974, a public meeting was held, attended by some 250 civic and political leaders, school principals, headquarters staff, personnel, parents and representatives of parent associations. A wide-ranging expression of views resulted. The meeting was followed by drafting sessions participated in by the Board's Zoning Unit and High School Division, and on May 31, 1974, a second public meeting was held at which the draft plan dated May 30, 1974, was presented, about 200 copies of it distributed, and dozens of expressions of vie wwere received. The meeting was attended by about 200 parents, as well as by political leaders, school principals and representatives of parent associations and civic associations. Following the meeting the plan was redrafted and, meanwhile, the Board applied for an extension of time of one month in order to allow time for the maximum possible consideration of views expressed on the plan, and with a view to withholding submission of the plan until after the reconstitution and enlargement of the Board on June 30, 1974. Accordingly, by a supplemental order of June 21, 1974, time for submission of the plan was extended until July 15, 1974. That order also indicated that a hearing on the final proposals of the parties would have to be held on notice that afforded an opportunity for a responsible public expression of views. With the Board's active assistance in obtaining the names of those who had manifested an interest in the re-zoning of the school including the public officers and legislative representatives, a hearing on notice to all parties believed to have an interest was scheduled for August 2, 1974.

During the entire period through the date of the hearing held on August 2 and 5, 1974, letters from individuals,

parents' association, parent-teacher associations, and civic and neighborhood groups were received in court, as well as petitions bearing a very large number of signatures—numbering, for example, in the case of a petition submitted in the name of residents in the Middle Village area (but including also parts of Maspeth, Glendale, and Elmhurst) over 3,900 signatures. Numerically, the communications opposed to adoption of the Board's plan preponderated. It is not possible to determine in most cases the basis of opposition or the extent of it. A number of communications, however, favored the Board of Education's plan, and a great many of the communications received emphasized that over the years Lane has acquired the reputation of failing to perform an adequate educational job and presenting serious disciplinary problems, and that, in consequence, it has not been and is not regarded by those in the Lane zone who might otherwise have sent their children to the school, as an available educational resource.

A very considerable number of communications have clustered around an affirmative proposal for a different approach to the problem presented by Lane. That proposal, identified as the "Coalition Proposal," was put forward by the South West Queens Educational Alliance (representing 22 schools), the Presidents' Panel of District 24 (representing 24 schools), the Parents' Associations of John Adams High School, Richmond Hill High School and Grover Cleveland High School, the Home School Coalition of District 24, the District 27 Parents Federation, the Cypress Hills Community Block Association, the Woodhaven Residents Block Association, Associated Organizations representing Ridgewood, Glendale, Middle Village, Maspeth and Liberty Park, and the Italian-American Civil Rights League.

The attached map shows the Franklin K. Lane zone as it now exists; it shows also (at the west end) the portion

of the present zone that would be deleted under the Board's plan, shows on the north side of the existing zone the areas that would be added from the present zones of the Grover Cleveland and the Richmond Hill High Schools to form the new Lane zone, and shows at the southeast corner the area that would be added from the present John Adams High School zone under the Board's proposed plan. Also shown on the map, for convenience, is a wedge shaped area south of the area the Board would delete from the present Lane zone: that is an additional deletion recommended in the Coalition Plan.

The plan proposed by the Board would, it is estimated, result, in each school year, in sending 600 prospective registrants from the deleted area to one or another of eleven other high schools or vocational high schools from among which the re-assigned students would have to make a limited and supervised choice. The option schools are Forest Hills, Newtown, William C. Bryant, Grover Cleveland, Franklin D. Roosevelt, James Madison, Sheepshead Bay, New Utrecht, and Lafayette High Schools and Edison and William Grady Vocational High Schools. Under the Board's plan there would be added to the Lane zone portions of the present attendance zones of Grover Cleveland, Richmond Hill, and John Adams High Schools; from these areas it is estimated that Lane would gain 570 registrants in each school year. The result would be an estimated net reduction of 30 Lane registrations in each year.

The purpose of the changes would be to remove from the Lane zone students from the segregated neighborhood at the west end of the present Lane zone and to add to the school areas that were neither integrated or were very predominantly made up of "other" population. Under the Board's plan no student now attending any of the high schools affected by the re-zoning and re-assignment changes would be transferred from the high school in which he or she is now attending to another high school. Students now

attending Lane will complete their high school education in Lane, and students now attending Grover Cleveland, Richmond Hill and John Adams High Schools will finish their high school education in their present schools. The Board's plan would, therefore, take four years from the first registration changes to come completely into effect.

The Board estimates that if its plan were put into effect with the first changes in assignment registration occurring in the fall of 1975 the percentage of "others" attending the school would increase from the present 16% to an aggregate of about 50% in the school year 1978-1979 through intermediate stages of 32% "other" in the school year starting September 1976, and 39% in the school year starting September 1977. Under an alternative implementation scheme the Board estimates that it would achieve the same ultimate goal of 50% at the same date, but no students would be introduced from the added areas until the school year commencing in the fall of 1976. The alternative implementation plan would give the school 31% "other" in the year starting September 1976, 42% "other" in the next year, and 50% "other" in the year starting September 1978.

Since the Board's plan postulates substracting certain areas from the present Grover Cleveland, John Adams and Richmond Hill zones and the assignment to Grover Cleveland (among the option schols) of children from the deleted part of the Lane zone the "other" population of the three schools will be reduced. The Board estimates that by 1978-1979 the "othed population in Grover Cleveland will decline from the present 81% to 70%, that of John Adams from the present 74% to 70%, and that of Richmond Hill from the present 64% to 60%. The Board estimates, too, that over the four years Glover Cleveland's utilization will decline from the present 158% to 143%, Adams' utilization would be diminished from 136% to 114%, and Richmond Hill's utilization would deminished from 114% to 108%.

In each school year the Board's plan, it is estimated, would add to Lane 45 registrants from the Richmond Hill addition to the Lane zone, 321 applicants from the Grover Clevelan addition to the Lane zone and 204 students from the Adams addition to the Lane zone.

Basic to the Board's plan is a scheme of implementation, which is presented in two alternatives, together with a supplemental but distinct plan for re-designing the educational programs to be made available at Lane. Because of what the Board considers to be the difficulty of any earlier implementation of any part of the plan and the risk that implementation would start out in a damagingly inadequate way, the Board would not commence the implementation of geographical and attendance changes until the school year commencing in September 1975. Both implementation schemese of the Board would continue the existing zone of Lane for the year commencing September 1974 (with only very minor changes from last year's zone* and both contemplate the admission to Lane of a regular entrance class as heretofore. Commencing in the school year 1975, under the Board's preferred implementation scheme, no new students would be admitted to Lane at all . All children

* It was brought out at the hearing that in the 1973-1974 school year there was a very substantial reduction in admissions to Lane from the area to be excluded, under the Board's plan, from Lane. Plaintiffs' counsel produced a schedule indicating that two of the "feeder" schools in the area (I.S. 55 and I.S. 271), expected to send 467 children to Lane in the current year, sent only 34 students to Lane in 1973-1974. This seems to have been accomplished by the Board's including in Lane's 1973-1974 zoning description a provision that "[p]upils from I.S. 271 and 55 will choose to attend either Wingate, Jefferson, Boys High School, Madison or Midwood." It was asserted that a substantial reduction in tensions resulted. In the Board's 1974-75 zoning description (issued before May 16, 1974) it is provided that, "In the Spring, after Education Options and Free Choice placements have been completed, graduates of I.S. 55 and I.S. 271 who reside in the Franklin K. Lane zone may opt for the Open Admissions Program together with the other designated sending schools." No data have been furnished on the effect, if any, of the option on expected Lane attendance.

(estimated at 1,200) in the existing Lane zone would be distributed amond the eleven schools listed above and would complete their High School educations in those schools, or in unzoned special schools of their choice. The students would be placed in the high school of highest priority of choice to the extent feasible. (There is a procedural program for effecting for effecting such a distribution with the assistance of data processing equipment which has been used in an optional choice program affecting the assignment of some 2,000 students in southeastern Queens among eight Queens high schools somewhat distant from the areas of residence of the students.) In the second year (starting September 1976) of the scheme a new class would be admitted to Lane from the new zone. In principle the new class would be admitted into both ninth and tenth years and those classes would be integrated in the sense that the "other" population would be in the order of 50-51%, reflecting the "balance" derivable from the population of the revised zone. In the next year, starting September 1977, a further class would be admitted from the new zone, and so, again, in the next year, 1978-1979; in that school year all fould classes in attendance would be made up of identically integrated classes of approximately 50% "other" population. The scheme, although it would defer new-zone admissions to Lane for two years, would, in the Board's view, achieve the 50% "other" goal of desegregation for the whole school as quickly as its alternative scheme which would start admissions from the new zone in September 1975; the preferred scheme, in the Board's view, would have the advantage that in the first year of admissions from the new zone, that is, in September 1976, there would be a dramatic and publicly visible change in the percentage of "others" in attendance, and, it is hoped, a reduction in what is believed to be the substantial loss of "other" population from Lane's own existing district resulting from

the imbalance in the present-day population of Ione. There will also have been an opportunity for community contacts under the Board's Educational Redesign Plan for Lane and for enhancement of the Lane Educational Program both intrinsically and visibly. The Board's preferred implementation scheme would imply an underutilization of Lane in the school years commencing September 1975 and 1976, but, overall, the utilization of Lane would not substantially change from its present 100% when the entire program reaches completion after four years. At that time, it is thought, the register of Lane would be 4,422 students as against 4,365 at the present time, a utilization rate of 101.% as against the present 100%.

The alternative scheme incorporated in the Board's plan would admit students from the whole of the new zone commencing in September 1975 and continuing thereafter until completion. In the first year, admission would be at the ninth year level only (as distinguished from the first alternative in which in the first year of admissions, September 1976, admissions would be from the feeder schools at both the ninth and tenth year levels.)

As an adjunct to the Board's rezoning plan, but independent of it, since in principle it could function without any zone change, the Board would embark on a program to effect aneducational redesign of Lane. The program visualizes forming an advisory commission to plan a "new school" to be phased into the existing Lane educational setting as that is transformed by the new plan. Community representatives, elected city and state officials, public school educators, college representatives and labor union personnel as well as faculty and other interested persons are considered as sources to be levied upon to stap the commission. Work would begin at once to convert Lane into a comprehensive high school as distinguished from, *e.g.*, a vocational or an academic high school. The educator-

membership of the commission would, as a task force, do the drafting in the first instance, and report to the commission, and, through it, to the Chancellor, who would be represented on the commission by High School Division personnel. The re?design task force would have, as a second aspect of its work, the informing of entering students and parents about the expanded educational programs. One suggested new design would divide the school into four schools within the school, each of which would be organized around a central educational theme and be headed by an assistant principal; each such inner school would have guidance staff and an organized pupil personnel service. Teachers and supervisors would, essentially, be assigned to separate schools with instructional service across sub-school lines kept to a minimum, except of course for such central services as library, shop and gymnasium. The component schools are enxisaged as schools that might choose among civil service-municipal career preparation, or transportation and traffic management, or urban studies, or behavioral science, or criminal justice, or labor relations, or ecological science (including conservation), or commerce and business, or communication arts. The program would employ aggressive publicizing of what was being done throughout the city generally. An effort would be made to maintain liaison with feeder schools and the Board's administration. In developing specific programs of studies with the new sub-schools advantage would be taken of work already done at other schools in the planning of programs which have included mini-courses, a broader than usual range of electives, interchange of course offerings between and among schools, out of school offerings, vocational try-outs for aptitude exploration, and the like. There is some backlog of experience in working in this program direction. It is recognized that guidance activities would be necessary, and, indeed, that guidance would have to pervade

any implementation of the ambitious program. Funding is visualized as a problem but one which is not seen as hopeless.

The controversial parts of the Board's program, and there will be returned to after the other suggested programs are explained, are, *first*, and foremost, those relating to delay in the implementation of the program until September 1975, and, *second*, the addition to the Lane zone of parts of the present zones of Grover Cleveland, Richmond Hill and John Adams High Schools. A part of the program that received little attention during the hearings, and, apparently, at the earlier meetings, was the reassignment of the students from that part of the old Lane zone at its west end who will not be specifically zoned into any other school, but will fall under an elective program which will inevitably require substantial travel on their part to reach any of the schools open for their election.

Plaintiffs do not propose an independent plan. However, they emphatically contend that the Board's plan should be implemented forthwith in September 1974. Specifically, the plaintiffs would approve the geographical zone changes but would favor either initiating the whole zoning program in September 1974, that is, in effect, accelerating by one year the second implementive scheme of the Board's proposal, or, at minimum, commencing in September 1974 with reassigning the children from the westernmost part of the present Lane zone, admitting students from the rest of the existing Lane zone in September 1974, and thereafter proceeding with the Board's plan on either one of its schemes of implementation.

The Coalition Proposal would alter the present Lane zone to the extent only of making Pennsylvania Avenue its westerly boundary, thus adding to the portion of the present Lane zone that the Board would delete a wedge-shaped area between Pennsylvania Avenue at the east, Liberty

Avenue at the south, and East New York Avenue at the northwesterly side. (Stone Avenue would define the extreme west end of the wedge.) The children zoned out of the Lane area would go to one or another of the same high schools listed in the Board's Plan plus Wingate, Midwood and Tilden High Schools, none of which is included in the Board's list. (On data available at the time of the trial, Wingate was six percent "other", 9.1% Peurto Rican and 84.9% black; Midwood was 71.3% "other", 2.6% Puerto Rican, and 26.1% black; and Tilden was 59.6% "other", 5.3% Puerto Rican and 35.1% black.) As submitted the Coalition Plan would assign children not opting one of the listed schools to either Boys High School or Prospect Heights High School. However, that was on the assumption that there had to be a final assignment to some school. The Board, in explaining its plan, made clear that the options extended to the students zones out of Lane would be limited to the listed high schools one of which would have to be accepted; there would be no zone or other assignment for children failing to elect one of the designated schools. The Coalition, understanding that it is possible to set up a series of alternative schools and require a choice among them, would, it is understood, delete the clause providing for last resort assignment to Boys High or Prospect Heights. The Coalition Plan would, it was estimated over the period of application reduce the Lane school population to 2,500 students from the revised zone. The additional space available would then be utilized as seating for about 1,000 students to be attracted to Lane by a Magnet Program. The Magret Program would be developed by a task force consisting of Lane's Parent Association, community representatives and professionals, who would also evaluate the effectiveness of the school's operation with a view to offering suggestions for improving it. The final aspect of the Coalition Plan would be Court appointment of a moni-

tor to review and evaluate the implementation and operation of the Plan, and to confer periodically with the Parents Association of Lane and with community representatives.

The Coalition Plan would be put into effect forthwith, except that the Magnet Program, which would require departmental work, would not be put into operation until September 1975.

It is pointed out in support of the Coalition Plan that the history and reputation of Lane's present district, and the plan counts on a very considerable gain in school attendance from Lane's present zone after the cutting off of the part west of Pennsylvania Avenue.

Assemblyman Vito P. Battista, whose district includes a part of the Lane school district, who is a member of District School Board 19, and who has been an educator by profession, proposed a plan similar to the Coalition Plan in that it would establish the west boundary of the Lane school district at Pennsylvania Avenue and otherwise retain the present boundaries. This, he estimated, would reduce the school enrollment to perhaps 3,000 or 3,500 students when the full effect of the rezoning of the school was felt. However, his plan suggests the incorporation into Lane of a high school of science similar to Bronx High School of Science, a school that would be completely unzoned but would form a highly attractive and accessible specialty school or the Bronx High School of Science type for the Brooklyn-Queens area (Bronx High School of Science is not a zoned high school but one which derives its student body from admission examinations). Mr. Battista considered that the establishment of such a dual school program for Lane would result in its becoming a viable community school with a first-rate educational program.

At the hearing held on August 2, 1974, and continued on August 5, 1974, the evidentiary presentation on the part of the Board was concentrated on a demonstration that it

would be difficult to implement any part of the Plan of the Board of Education in September of 1974. Specifically the Board's evidence, presented through a witness unquestionably qualified by his educational, administrative and executive experience, was that to implement the Plan, even to the limited extent of reassigning the students living in the area that the Board proposed to exclude from the Lane zone for the coming school year of 1974, would not be insurmountably difficult but could not possibly be done optimally or in the manner usually employed in comparable situations to obtain a satisfactory result. To reassign students to schools other than those which at the close of the school year they were being prepared to enter would require, in substance, educating both child and parent in the occasion for the change of assignment, its justification and the nature, limitations and problems of the choice open to the student. Definite guidance would desirably have to be given individually to the parents and children. Such guidance preferably takes the form, in the regular school year, of extending to parent and child the opportunity to visit the prespective school, and giving guidance counselling in group and in supplementary individual meetings in the course of the regular school year and in the school setting. To compress that indoctrination into the time remaining before the new school year begins on September 9, 1974, is thought to involve such genuine difficulties that the risks of ineffective and inefficient execution are hight. The neighborhood being excluded from the Lane zone is observably a run-down area in which there has been much deterioration of building fabric and which has become ghetto-like in the poverty of its inhabitants and their overall unresponsiveness to the educational situation. Such a community is among the most difficult to reach: the truancy rate is high and assurance of communication with the school and its guidance services is very low.

None of this can be ar has been challenged. On the other hand it is evident that in one sense the children from the area to be assigned out of Lane are precisely the children who have been unconstitutionally discriminated against, because they have been zoned into a school which by the standards of the city wide school system is a *de jure* segregated school district. Relief of the children from this area from invidious discrimination and relief of other students in the district similarly situated has been and remain the goal of the litigation. It is not correct to think of the case as seeking to achieve a better racial and ethnic balance in the school, and to define that in terms of the highest feasible percentage of "other" population in the school. Redressing imbalance is a mathematical consequence of measures taken to eliminate invidious discrimination. Comparative imbalance between schools in the same city wide school district, for the same reason, discloses the existence of *de jure* segregation, of invidious discrimination.

The institution of the present suit and the perfectly clear decision in the present case in April of 1972, should as a matter of course, preferably in September of 1972, certainly in September of 1973, and necessarily in September of 1974 have resulted in either the voluntary rectification of the Lane situation or—non—an aggressive and specific commencement upon the task of eliminating the invidious discrimination. The April 1972 Memorandum and Order were perfectly clear in saying

> "The consequence, with equal inevitability, however, is that the Board's school zoning is specifically advertent to the existence of racial and ethnic imbalances and to the dilution or deprivation of educational opportunity implicit in it, and in its zoning the Board deals insistently and directly with the ethnic composition of the schools; where segregation

in an objectively invidious sense is the result, it is *de jure* segregation and is not an uncured consequence of housing patterns helplessly submitted to as beyond the reach of feasible compensatory planning * * *

"Here the Lane zone has no school-house centricity. A 'neighborhood zone,' in the sense of a zone which extended outward from the school-house along routes of convenient access in geographical coherence around the school is not present. Lines drawn in that way to enclose a school district would radically change the ethnic distribution of the Lane school population. That is evident from the data on the populations of Grover Cleveland, Forest Hills, Richmond Hill and Jamaica High Schools, all of which are over sixty percent 'other,' and from the 1970 census tract data on 'General Characteristics of the Population' and 'Occupancy, Utilization, and Financial Characteristics of Housing Units.'

"*Prima facie*, an objectively segregated school zone thus appears to have been established and adhered to in a series of zonings that has tended advertently to reinforce rather than to mitigate the educational disadvantage of an imbalanced school.

"* * * Certainly an imbalanced school is not invidiously segregated *per se* if its imbalance is a result of housing patterns only * * * but that appears to be not the present case. Here, an artificial and irrelevant factor appears to have intruded, the boundary between the borought, and to have exerted an unjustified influence on the zone planning."

While other considerations of great importance prevented either the granting to the plaintiff of preliminary relief by injunction or the granting of the Board's motion for summary judgment, the principles were perfectly implicit and

should not have required any further judicial intervention in the light of the Board's alertness in the past to the obvious implications of its segregation problem and the known attitudes of the State Commissioners of Education over the last dozen and more years.

All those who were heard either during the hearing on August 2 and August 5 or in written submission appear to be substantially unanimous that the exclusion from the Lane zone of the part which the Board's plan proposes to exclude is desirable. However, it is at once apparent that the removal of the area has not been accompanied by zoning that same area into any other school zone and consideration of the data with respect to the other schools will explain why that was not done. The school zones contiguous with that part of the Lane zone are those of Bushwick, Boys and Jefferson High Schools. At the date of trial Bushwick High School was 17% "other," 47% Puerto Rican and 36% black, Thomas Jefferson was 5.1% "other," 27.7% Puerto Rican and 67.2% black and Boys High School was 1.8% "other," 7.9% Puerto Rican and 90.3% black (see Memorandum and Order of May 16, 1974, page 13). To rezone the area removed from Lane into any of the other school districts would not relieve against but would worsen invidious segregation or, at best, fail to alleviate it. Reassigning the children from the deleted area as proposed by the Board is a substitutional expedient, but no better means of desegregating Lane is visible. The children assigned to the eleven schools will have to travel varying and, in most cases, substantial distances to reach the assigned schools. Reliance must be placed on the Board's resourcefulness in obtaining adequate transportation for the children and in making the best possible reassignment taking into account the expressed and reasonable wishes of each child and his or her parents to reduce the burden of travel to a minimum. But it must be emphasized that it is these

children who are those whose lot is the matter of central and first concern from the very nature of the present case.

While it is regrettable that the Court's action was not taken sooner, there may not be delay of a further school year in carrying out the reassignment of the children in the area deleted from the Lane zone. An extraordinary effort must certainly be exerted. It is estimated that no more than approximately 600 children are involved and the resources and resourcefulness of the Board must be marshalled to the effort forthwith.*

The critical difference between the Coalition Plan and the Board's Plan is in the Board's proposal that areas be deleted from the Grover Cleveland, Richmond Hill and John Adams school zones and added to the northeastern and southeastern boundaries of the Lane zone as shown on the attached map. The central thesis of the Coalition Plan is that Lane has in substance broken down as the neighborhood high school which it, potentially, has been and remains; that because of the problems that accumulated upon Lane, it has become over the years an ever less attractive school for the people in its immediate neighborhood and that they have deserted it in favor of election to attend diocesan high schools and other denominational institutions and private schools, and through using "false" addresses have managed to gain admission to other New York City High Schools regarded as more satisfactory. In general, the Board of Education concurs that the situation at Lane has over the years become such that it has lost a part of its natural student constituency to other schools and to subterfuges calculated to make possible attendance at other public schools. The Board notes also that the condition at Lane has no doubt resulted in resort to other legitimate means of obtaining public high school education, such as choosing to apply to one of another of the unzoned special schools that exist within the City system.

It is extraordinarily difficult to determine what additional neighborhood school population would be available to Lane if it was presenting the optimum educational program for its area. One of the community representatives (and the contributions of these representatives to the hearing and to efforts to improve the school situation through direct communication with and action directed to the Board of Education cannot be overestimated or overp aised) has supplied data based on a canvas of 11 parochial schools in the area indicating that in the current year they graduated some 733 students resident in Franklin K. Lane's zone. The data available indicated that not more than 42 have chosen to register in Lane, although the parochial school authorities had indicated that less than half of the graduates were expected to attend diocesan or other denominational high schools. It was definitely estimated that 157 graduates would go to public high schools somewhere and somehow, either by subterfuge or through attendance at special schools in preference to Lane. It was estimated that potentially there could be in the order of 350 to 500 additional students available from the parochial school and similar feeder sources to the truncated Lane school zone with additions made to the zone from the other school zones. Hence, the Coalition Plan places primary emphasis on creating in Lane an educational program and atmosphere so attractive that the children residing in the zone as truncated, will elect to attend Lane and not to avoid it. The Coalition Plan also recognizes that in any case the result would be to leave additional space estimated at 1,000 places, and that the placese could be the core space for a Magnet Program to be developed, as explained above, through a task force.

It may be assumed that such an effect as the sponsors of the Coalition Plan project for their plan would result, but it is concluded that, without the addition of children

zoned from outside the present zone, the goal of desegregation would not be measurably and assuredly achieved. The plan would result, in high probability, in a school with substantially less than 50% "other" population, and there is no practical way of determining how far below 50% the "other" population would fall. The Coalition Plan would prevent any substantial diminution of the "other" percentages in Grover Cleveland, Richmond Hill and John Adams High Schools, except that which would result from two sourcese in the case of Grover Cleveland (reassignments from Lane and demographic change), and from the continued trend in the schools of the City to an increase in Puerto Rican (or other Spanish speaking) and black school population in the case of Richmond Hill and John Adams High Schools. The addition of the areas from the three high schools to the Lane zone does appear, on the Board's projections, to result in an increase in black and Puerto Rican population percentages in Richmond Hill and John Adams; inferentially, that is the result of differences in the population ratio in the zones as they remain after the transfer to Lane of the areas contiguous with Lane's present zone. In the case of Grover Cleveland the increase in black and Puerto Rican population ratios would be at least in some part due to the expected exercise of options to attend Grover Cleveland on the part of the children in the area to be excluded from the Lane zone. However, the argument cannot genuinely be made that the result is arbitrary, or individiously discriminatory against the children in the Grover Cleveland, Richmond Hill and John Adams High Schools or the children who will now be in the expanded Lane zone. None of these children will be sent arbitrarily to a distant school to create a balanced school population; all are to attend schools arguably their neighborhood schools and within reasonable distance of them. The schools themselves, on the projections made by the

Board, cannot be regarded as segregated schools and, certainly, not as schools segregated invidiously against white children.

The hearing brought out references to the difficulties of transportation that will be experienced by some of the students being zoned into Lane. It was explained that in part this is due to the pattern of public bus routes. The bus lines are not all Metropolitan Transit Authority bus lines (some are privately owned franchised buses). Queens bus routes are oriented mainly east and west, and north-south routes are wide-spaced. One consequence, it is said, is that children from the southeasterly part of the area added to Lane from John Adams will have to take three buses to reach Lane, although they are practically within walking distance of John Adams High School. While transportation difficulties will exist for some, particularly in consequence of the park and the cemeteries northerly of the Lane school building, that would not appear to be true of the generality of the children who will be attending Lane from the added areas. Some of the students will not have as convenient public transportation in going to Lane as they would in going to the schools which they would have attended but for the re-zoning. On the other hand, the Lane zone as it has existed has involved long travel distances for the students coming from the south end of the zone and from the west end of the zone. The extremities of the Lane zone as it existed before the proposed re-zoning are more distant than the most distant parts of the new zone. Moreover, there is, again, reason to rely on the Board of Education's capacity and will to ameliorate transportation problems that may crop up through either the establishment of special school buses by the MTA or through contract bus arrangements.

The letters addressed to the Court contain many assertions by parents that if the Board's Plan is adopted, they

will not send their children to Lane because of its inadequacy as a school, the personal security risks that they believe their children will assume, and the children's loss of their assumed "right" to attend a nearer, safer and better public school. In some instances parents insist that their children be permitted to attend—and that they *shall* attend—the schools nearest to them, meaning Grover Cleveland. od Richmond Hill, or John Adams, rather than Lane.

Again, no child now attending any of the High Schools involved—Grover Cleveland, Richmond Hill, John Adams, or Franklin K. Lane—will be transferred to any other schools. Moreover, what kind of school a particular school is, and how good its programs are, depends not on its past but on its present, including the transformation—great or small—of the school that results from rezoning and the drawing of children into the school's student body from different communities with different educational needs and goals and insistences. It is imperative, however, that parents and children understand that there is no preemptive right to attend any particular school on the basis of convenience of access to it and approval of its particular program. All the schools are public schools, and are, alike, public property and a public trust. They must be administered in the interest of the entire population. Proximity to a particular school is a circumstance always taken into account in drawing zone lines, and in determining the high schools that graduates of "feeder" schools will be assigned to attend. Proximity to a high school, nevertheless, is not and must not be regarded as determinative, and as establishing in parent and child a legal right of future attendance at that very school. All students are alike entitled to free public education, and all are equally entitled to have free public education extended to them without invidious discrimination by reason of color, island origin, religion or other such circumstance. The public responsibil-

ity to meet each one of the public duties owed to all citizens equally inevitably results in the imposition of inconvenience on some. It is easy, here, to see that the obvious, inevitable and greatest hardship is being imposed on the children in the district west of Pennsylvania Avenue who are taken out of the Lane zone. Their situation is such that, if they were zoned into any other school of convennient location, they would achieve no alleviation of the existing invidious discrimination to which they, primarily, have been subjected. It is they who will bear the heaviest burden of the constitutionally necessary desegregation effort.

There is no disguising the fact of inconvenience and the existence of disadvantage. But there is no escape from the changes that the City is experiencing; what has been said in the many letters and during the hearing emphasizes that in the present phase of the change pattern in the greater metropolitan area removal of middle and upper income families with school-age children to the suburbs and to "exurbia," the use of subterfuge to avoid attendance at particular public schools, and the election to attend denominational and private schools unite to worsen the lot of those who cannot afford to or who disdain to give up their settled residences and their zone schools. But the undeniable changes leave the Board of Education no alternative but to develop such plans as that here presented to eliminate unconstitutional segregation and serve adequately the educational needs of the whole body of school-age children.

It is concluded that the Board's plan must be approved and adopted with the modification that the assignment amond the eleven high schools** named in the Board's plan

** The Coalition Plan would have added Wingate, Midwood and Tilden High Schools to the list presented by the Board of Education. Both Tilden and Midwood were included in the Board's 1973-1974 list of schools opened to the choice of I.S. 55 and I.S. 2871 pupils.

of the children from the area deleted from the Lane zone shall be effected for the school year commencing in September 1974. The Board's plan is adopted and approved on the basis of the Board's preferred scheme of implementation (alternative A) except taht no children from the area to be deleted from the Lane zone under the plan will be admitted to Lane for the school year commencing in September 1974 but those children must be reassigned among the eleven high and vocational high schools listed in the plan.

A separate form of final judgment has been approved for signature by the Clerk.

It is so ORDERED.

Brooklyn, New York
August 8, 1974

John Dooling
U.S.D.J.

Notice of Appeal to United States Court of Appeals

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

71 C 502

CHARLES DEFELICE, *et al.*,

Plaintiffs,

against

THE BOARD OF EDUCATION OF THE CITY OF NEW YORK, *et al.*,

Defendants.

SIRS:

NOTICE is hereby given that the defendants hereby appeal to the United States Court of Appeals for the Second Circuit from the Judgment entered herein on August 8, 1974 and the interlocutory order dated May 16, 1974.

Dated: New York, N.Y.
September 5, 1974

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321-1M-421040(53)

AFFIDAVIT OF SERVICE ON ATTORNEY OF PRINTED PAPERS

City, County and State of New York, ss.:

JAMES BURNS

being duly sworn, says, that on the 11th day of Dec, 1974

at No. 150 East 58-57 in the Borough of MANH in The City of New York, he served three copies

of the annexed APPELLANTS - APPENDIX upon MORTIMER TODEL Esq.,

the attorney for the PLAINTIFFS - APPELLEES in the within entitled action by delivering

three copies of the same to a person in charge of said attorney's office during the absence of said attorney therefrom, and

leaving the same with him.

Sworn to before me, this 11th
day of December, 1974

John Calia

JOHN CALIA
Notary Public, State of New York
No. 41-5673935 Queens County
Certificate Filed in New York County
Commission Expires March 30, 1976

James Burns

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